

06-09-1998



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U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

MAY 19 1998

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

MRD 5-18-98

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID # 100320763A
- Correction of PTO Error
Reel # [] Frame # []
- Corrective Document
Reel # [] Frame # []

Conveyance Type

- Assignment
- License
- Security Agreement
- Nunc Pro Tunc Assignment
Effective Date
Month Day Year []
- Merger
- Change of Name
- Other []

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name MDT Acquisition Corp.

10271995

Formerly []

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other []
- Citizenship/State of Incorporation/Organization California

Receiving Party

Mark if additional names of receiving parties attached

Name Medtronic, Inc.

DBA/AKA/TA Medtronic P.S. Medical

Composed of []

Address (line 1) 7000 Central Avenue NE

Address (line 2) []

Address (line 3) Minneapolis
City

Minnesota
State/Country

55432
Zip Code

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other []
- Citizenship/State of Incorporation/Organization []

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

06/10/1998 DC0ATES 00000021 132346 1433707

FOR OFFICE USE ONLY

01 FC:481 40.00 CH
02 FC:482 300.00 CH

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

**RECORDATION FORM COVER SHEET
CONTINUATION
TRADEMARKS ONLY**

Conveying Party

Enter Additional Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

Individual General Partnership Limited Partnership

Corporation Association

Other

Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="1433707"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="1589835"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
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Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Thomas F. Woods

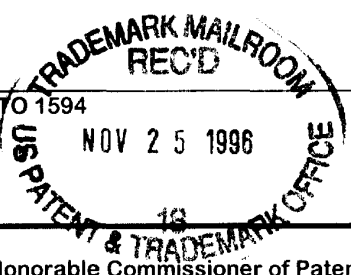


5-18-98

Name of Person Signing

Signature

Date Signed



12-06-1996

D

FORM PTO 1594
1-31-92

NOV 25 1996



100320763

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

MED 11-25-96

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

P.S. Medical
125-B Cremona Drive
Goleta, CA 93117

A-B
B-C

Individual(s)
 General Partnership
 Corporation-State
 Association
 Limited Partnership
 Other _____

Additional name(s) of conveying party(ies) attached?
 yes no

3. Nature of conveyance

Assignment
 Security Agreement
 Merger
 Change of Name
 Other _____

Execution Date: October 27, 1996

2. Name and address of receiving party(ies):

Medtronic PS Medical, Inc.
7000 Central Avenue NE
Minneapolis, MN 55432-3576

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State California
 Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached:
 yes no

(Designations must be a separate documents from Assignment)

Additional name(s) and address(es) attached?
 yes no

4. Application number(s) or registration number(s):

A. Trademark Application No.(s):
74/611,947

B. Trademark Registration No.(s):

Additional numbers attached: Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Thomas F. Woods
MEDTRONIC, INC.
7000 Central Avenue NE
Fridley, MN 55432

13-2574
13-7546

6. Total number of applications and registrations involved: 12

7. Total fee (37 CFR 3.41) \$315

Enclosed

Authorized to be charged to deposit account

8. Deposit Account No.: 13-245
(Attach duplicate copy of this page if paying deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Thomas F. Woods *Thomas F. Woods* *Nov 19, 1996*
Name of Person Signing Signature Date

Addendum

1,433,707

1,589,835

1,706,497

1,732,058

1,733,986

1,745,138

1,771,277

1,771,283

1,789,868

1,809,982

1,920,801

1467703

FILED 49
In the office of the Secretary of State
of the State of California

NOV 02 1995

Bill Jones
W. JONES, Secretary of State

1500
07/30/95
MERGER AGREEMENT

THIS MERGER AGREEMENT (this "Merger Agreement") is made and entered into as of October 27, 1995 by and between MDT ACQUISITION CORP. ("Subsidiary"), a California corporation, and PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION ("PS Medical"), a California corporation. Subsidiary and PS Medical are the "Constituent Corporations" to the merger (the "Merger") provided for in this Merger Agreement.

ARTICLE I
DEFINITIONS

As used in this Merger Agreement, the following capitalized terms shall have the following meanings:

- (a) the "Effective Time" shall be the time of filing this Merger Agreement and the Officers' Certificates attached hereto with the California Secretary of State in accordance with the California General Corporation Law.
- (b) the "Agreement and Plan of Reorganization" shall mean that certain Agreement and Plan of Reorganization dated September 29, 1995 by and among Medtronic, Inc., a Minnesota corporation and sole shareholder of Subsidiary ("Medtronic"), Subsidiary, PS Medical and all of the shareholders of PS Medical (the "Shareholders"), a copy of which shall be maintained at the Surviving Corporation's principal executive office and made available to any Shareholder upon request.
- (c) "Surviving Corporation" shall mean PS Medical as the surviving corporation of the merger of Subsidiary with and into PS Medical.
- (d) "CGCL" shall mean the California General Corporation Law.

ARTICLE 2
SURVIVING CORPORATION

2.1) ~~Subsidiary to be Merged.~~ At the Effective Time, the separate corporate existence of Subsidiary shall cease, and Subsidiary shall be merged into PS Medical, which shall be the Surviving Corporation and continue its corporate existence under the laws of the State of California.

2.2) Articles of Incorporation. The Articles of Incorporation of the Surviving Corporation shall be restated at the Effective Time to read as set forth in Exhibit A.

2.3) Directors. The directors of the Surviving Corporation from and after the Effective Time shall be the following persons, who shall hold office until their respective successor is elected and qualified:

Arthur D. Collins, Jr.
Ronald B. Lund
Robert L. Ryan

2.4) Officers. The officers of the Surviving Corporation from the Effective Time shall be the following persons, each of whom shall hold office until his respective successor is elected or appointed and qualified:

Chief Executive Officer	--	Arthur D. Collins, Jr.
President	--	John A. Medlow
Vice President and Secretary	-	Ronald B. Lund
Chief Financial Officer	--	Robert L. Ryan
Treasurer	-	Michael J. Boris
Vice President and General Manager	--	Gary P. East
Controller	-	Gary L. Ellis
Assistant Secretary	-	Carol E. Makinson
Assistant Secretary	-	Michael R. Kroll

2.5) Effect of Merger.

(a) Upon the Merger, the separate existence of Subsidiary shall cease and the Surviving Corporation shall succeed, without other transfer, to all the rights and property of Subsidiary and shall be subject to all the debts and liabilities of Subsidiary in the same manner as if the Surviving Corporation had itself incurred them.

(b) All rights of creditors and all liens upon the property of each of the Constituent Corporations shall be preserved unimpaired, provided that such liens upon property of Subsidiary shall be limited to the property affected thereby immediately prior to the Effective Time.

(c) Any action or proceeding pending by or against Subsidiary may be prosecuted to judgment, which shall bind the Surviving Corporation, or the Surviving Corporation may be proceeded against or substituted in its place.

ARTICLE I
MANNER AND BASIS OF CONVERTING SECURITIES

3.1) Conversion of PS Medical Shares. At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of PS Medical Common Stock issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive Medtronic Common Stock and cash as set forth in Exhibit B attached hereto.

3.2) Other PS Medical shares and Stock Options. At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each outstanding share, if any, of any other class of capital stock of PS Medical (other than PS Medical Common Stock) shall be cancelled without payment of any consideration therefor and without any conversion thereof. Prior to the Effective Time, all outstanding options, warrants or other rights ("PS Medical Options") to purchase shares of PS Medical Common Stock, if any, shall either be exercised or shall expire. At or immediately prior to the Effective Time, PS Medical shall terminate all plans, if any, of PS Medical under which PS Medical Common Stock or PS Medical Options may be granted and shall cancel and terminate each outstanding option, performance share, or other right granted under any such plans, and shall take all other actions with respect to such options, performance shares, and other rights required under the terms of any such plans in each case in accordance with the terms of such plans or pursuant to duly adopted amendments to such plans, which shall have been executed or consented to in writing by all affected option holders or participants.

3.3) Subsidiary Shares. At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of common stock of Subsidiary, par value \$ 10 per share, issued and outstanding immediately prior to the Effective Time shall be converted into one share of the common stock of the Surviving Corporation (the "Surviving Corporation Common Stock").

3.4) Dissenting Shares. The holders of all outstanding PS Medical Common Stock have approved the Merger and, therefore, there are no shares of PS Medical Common Stock with respect to which the holders thereof have the right to dissent pursuant to Section 1302 of the CGC.

3.5) Exchange of PS Medical Common Stock.

(a) Promptly after the Effective Time, Medtronic shall cause Medtronic's stock transfer agent or such other person as Medtronic may appoint to act as exchange agent (the "Exchange Agent") to mail or otherwise deliver to each holder of record of a certificate or certificates that immediately prior to the Effective Time represented outstanding shares of PS Medical Common Stock (the "Certificates") a form letter of

transmittal (which shall specify that delivery shall be effective, and risk of loss and title to the Certificate(s) shall pass, only upon delivery of the Certificate(s) to the Exchange Agent or to Medtronic or Subsidiary) and instructions for such holder's use in effecting the surrender of the Certificates in exchange for certificates representing shares of Medtronic Common Stock.

(b) The Exchange Agent shall deliver to holders of shares of PS Medical Common Stock, upon surrender to the Exchange Agent of one or more Certificates for cancellation together with a duly-executed letter of transmittal, the installments of the merger consideration.

(c) After the Effective Time, there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of PS Medical Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates representing such shares are presented to the Surviving Corporation, they shall be cancelled and exchanged as provided in this Article 3. As of the Effective Time, the holders of Certificates representing shares of PS Medical Common Stock shall cease to have any rights as shareholders of PS Medical, except such rights, if any, as they may have pursuant to the CCCL. Except as provided above, until such Certificates are surrendered for exchange, each such Certificate shall, after the Effective Time, represent for all purposes only the right to receive the Merger consideration referred to in Section 3.1 plus the right to receive the cash value of any fraction of a share of Medtronic Common Stock as provided in Section 3.5(d) hereof.

(d) No fractional shares of Medtronic Common Stock and no certificates or scrip therefor, or other evidence of ownership thereof, shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of Medtronic shall relate to any fractional share, and such fractional share interests shall not entitle the owner thereof to vote or to any rights of a shareholder of Medtronic. All fractional shares of Medtronic Common Stock to which a holder of PS Medical Common Stock would otherwise be entitled shall be aggregated. If a fractional share results from such aggregation, then (in lieu of such fractional share) the Exchange Agent shall pay to each holder of shares of PS Medical Common Stock who otherwise would be entitled to receive such fractional share of Medtronic Common Stock an amount of cash (without interest) equal to such fraction multiplied by \$55.47.

(e) In the event any Certificates shall have been lost, stolen or destroyed, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate, upon the making of an affidavit of that fact by the holder thereof, such shares of Medtronic Common Stock and cash for fractional shares, if any, as may be required pursuant to this Article 3; provided, however, that Medtronic may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost,

stolen or destroyed Certificate to deliver a bond in such sum as Medtronic may direct as indemnity against any claim that may be made against Medtronic or the Exchange Agent with respect to the Certificate alleged to have been lost, stolen or destroyed.

(f) Each person entitled to receive shares of Medtronic Common Stock pursuant to this Article 3 shall receive together with such shares the number of Medtronic Common Stock Purchase Rights (pursuant to the Rights Agreement dated as of June 27, 1991, between Medtronic and Norwest Bank Minnesota, N.A., the "Medtronic Rights Plan") per share of Medtronic Common Stock equal to the number of Medtronic Common Stock Purchase Rights associated with one share of Medtronic Common Stock at the respective Merger Share Issuance Date.

ARTICLE 4 MODE OF CARRYING MERGER INTO EFFECT

4.1) This Merger Agreement has been approved by the requisite vote of the shareholders of each of the Constituent Corporations, subject to the occurrence of the "Closing" as defined in the Agreement and Plan of Reorganization. Upon such Closing, an Officers' Certificate certifying such approval shall be prepared by the appropriate officers of each Constituent Corporation and a copy of this Merger Agreement attached thereto. Such Officers' Certificate shall be signed on behalf of each Constituent Corporation and, along with this Merger Agreement, filed with the California Secretary of State in accordance with the CGCL.

ARTICLE 5 COUNTERPARTS

This Merger Agreement may be executed in counterparts and by different parties on different counterparts with the same effect as if the signatures thereto were on the same instrument.

RESTATED ARTICLES OF INCORPORATION
OF
MEDTRONIC FS MEDICAL, INC.

ARTICLE 1 - NAME

1.1 The name of the corporation shall be Medtronic FS Medical, Inc.

ARTICLE 2 - PURPOSE

2.1 The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California, other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE 3 - STOCK

3.1 Authorized Shares. The aggregate number of shares the corporation has authority to issue shall be 2,500 shares of Common Stock, \$10 par value. Holders of Common Stock shall be entitled to one vote for each share of Common Stock held of record.

ARTICLE 4 - RIGHTS OF SHAREHOLDERS

4.1 No Preemptive Rights. No holder of any class of stock of the corporation shall be entitled to subscribe for or purchase such holder's proportionate share of stock of any class of the corporation now or hereafter authorized or issued.

ARTICLE 5 - LIMITATION ON PERSONAL LIABILITY OF DIRECTORS

5.1 The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest practicable extent under California law.

(5457)

TRADEMARK

REEL 1737 FRAME 0345

PORTIONS OF
AGREEMENT AND PLAN OF REORGANIZATION
INCORPORATED BY REFERENCE INTO MERGER AGREEMENT

1.1) Special Definitions. As used in this Agreement, the following terms shall have the meanings set forth or so referenced below:

"Average Market Price" as of a certain date means the average of the "Daily Market Price" of Medtronic Common Stock for the 20 consecutive trading days ending on the 15th trading day immediately preceding such date, appropriately adjusted for any stock splits or stock dividends during such period. The "Daily Market Price" shall be equal to the average of the high and low sale prices of Medtronic Common Stock for each trading day as reported on the New York Stock Exchange ("NYSE") Composite Tape, as reported in the Wall Street Journal.

"CE Mark Approval" means receipt of the CE marking for the PAR Device in accordance with the European Council Directive 90/385/EEC for Active Implantable Medical Devices (or if covered by the MDD, directive 92/42/EEC), by receiving from a European Notified Body the certificates, stating compliance with one of the Conformity Assessment procedures, as stated in Article 9, clause 1 of the Council Directive 90/385/EEC (or, if covered by the MDD, in Article 11 thereof) as referenced in the CE Mark Approval Plan, and completion and approval of local language labeling for the major European markets.

"Common Stock" means common stock of Medtronic, par value \$1.10 per share.

"PS Device" means PS Medical's patient activated reservoir device in its product specifications as of the date hereof, as such device may be modified hereafter.

"PMA Approval" means pre-market or equivalent approval by the FDA for commercial sale in the U.S. of the PAR Device for the indications described in PS Medical's IDE #G940172.

"PMA Payment Amount" means: (i) U.S.\$10,000,000 if PMA Approval is received on or before December 31, 1998; (ii) U.S.\$8,000,000 if PMA Approval is received between January 1, 1999 and December 31, 1999, inclusive; (iii) U.S.\$6,000,000 if PMA Approval is received between January 1, 2000 and December 31, 2000, inclusive; or (iv) zero (0) if PMA approval is not received before January 1, 2001.

2.3) **Conversion of PS Medical Shares:** At the Effective Time, by virtue of this Merger and without any action on the part of any holder thereof, each share of PS Medical Common Stock owned and outstanding immediately prior to the Effective Time, other than any shares being held, shall be converted into the right to receive the following (on a per share basis):

- (a) As soon as practicable after the Effective Time and subject to the escrow set forth in Section 10.4, such number of shares of Medtronic Common Stock equal to U.S. \$70,000,000 divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time, divided by the Average Market Price at the Effective Time;
- (b) If the CE Mark Approval is received prior to July 1, 1997, as soon as practicable after receipt of the CE Mark Approval, such number of shares of Medtronic Common Stock equal to U.S. \$100,000,000 divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time, divided by the Average Market Price on the date of receipt of such CE Mark Approval;
- (c) If and when the FDA Approval is received, as soon as practicable thereafter, such number of shares of Medtronic Common Stock equal to the FDA Payment Amount divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time, divided by the Average Market Price on the date of receipt of such FDA Approval; and
- (d) Within 45 days after the end of each Revenue Measurement Period, cash in an amount equal to 1% of the Medtronic's Vascular Access Device Revenues (or such other equally suitable percentage pursuant to the definition of "Vascular Access Devices") during such immediately preceding Revenue Measurement Period, divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time; provided that the aggregate amount of cash paid pursuant to this subsection (d) with respect to all Revenue Measurement Periods shall in no event exceed \$15,000,000.

The conversion ratios to be calculated pursuant to (a), (b), and (c) above shall be calculated and rounded to six decimal places, with the sixth decimal place rounded up if the seventh decimal place is 5 or more. Each such share of Medtronic Common Stock issued pursuant to this Section shall be fully paid and nonassessable. Notwithstanding the foregoing, if Medtronic is acquired in a merger in which all outstanding shares of Medtronic Common Stock are converted into the right to receive stock (or stock and other property) of the acquirer, then, immediately prior to such acquisition, the Merger Shares (issuable pursuant to Section 2.3(a) and 2.3(c) above shall be issued (based on the Average Market Price at such time) into escrow upon terms substantially identical to the Escrow Agreement, and the stock (or stock and other property) into which such escrowed Merger Shares are converted shall be

TRADEMARK

REEL 1737 FRAME 0348

held by the Escrow Agent until the conditions set forth in Sections 2.3(b) and 2.3(c), respectively, are satisfied.

2.7) Exchange of PS Medical Common Stock.

(b) As soon as practicable after each Merger Share Issuance Date, the Exchange Agent shall deliver to holders of shares of PS Medical Common Stock, upon surrender to the Exchange Agent of one or more Certificates for cancellation, together with a duly-executed letter of transmittal, (i) one or more certificates representing the number of whole shares of Medtronic Common Stock into which the shares represented by the Certificate(s) shall have been converted pursuant to Section 2.3(a), Section 2.3(b) or Section 2.3(c), respectively and (ii) a bank check in the amount of cash representing payment in lieu of any fractional Merger Share pursuant to Section 2.7(f) (relating to fractional shares). Notwithstanding the foregoing, the aggregate number of shares of Medtronic Common Stock issued pursuant to Section 2.3(a) shall be distributed in two or more installments. The first such installment shall be distributed as soon as practicable following the Effective Time and shall consist of the number of such shares equal to the aggregate number of shares issued pursuant to Section 2.3 (a) less the number of Escrow Shares (as defined in Section 10.4). A second such installment shall be distributed as soon as practicable following the expiration of the Survival Period (as defined in Section 13.3) and shall consist of the number of Escrow Shares that exceed the number of Escrow Shares for which claims for Indemnifiable Losses (as defined in Section 10.1) have been made and have not been resolved. Thereafter, subsequent installments shall be distributed out of any remaining Escrow Shares at such times as outstanding claims for Indemnifiable Losses made by Medtronic during the Survival Period are resolved, until all such claims are resolved. The final installment shall consist of the number of Escrow Shares remaining after satisfaction of all claims for Indemnifiable Losses, if any, by Medtronic. All of such installments shall be distributed to the Shareholders ratably, in proportion to the number of shares of PS Medical Common Stock held by them at the Effective Time. In the event of a transfer of ownership of PS Medical Common Stock that is not registered in the transfer records of PS Medical, it shall be a condition to the issuance of shares of Medtronic Common Stock that the Certificate(s) so surrendered shall be properly endorsed or be otherwise in proper form for transfer and that such transferees shall (i) pay to the Exchange Agent any transfer or other taxes required, or (ii) establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.

(f) No fractional shares of Medtronic Common Stock and no certificates or scrip therefor, or other evidence of ownership thereof, shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of Medtronic shall relate to any fractional share, and such fractional share interests shall not entitle the

TRADEMARK

REG. U.S. PAT. & TM. OFF. FILED IN U.S. PAT. & TM. OFF. 1/17/87 PS/AME 0349

owner thereof to vote or to any rights of a shareholder of Medtronic. All fractional shares of Medtronic Common Stock to which a holder of PS Medical Common Stock would otherwise be entitled with respect to each Merger Share Issuance Date shall be aggregated. If a fractional share results from such aggregation, then (in lieu of such fractional share) the Exchange Agent shall pay to each holder of shares of PS Medical Common Stock who otherwise would be entitled to receive such fractional share of Medtronic Common Stock an amount of cash (without interest) determined by multiplying (i) the Average Market Price at such Merger Share Issuance Date by (ii) the fractional share of Medtronic Common Stock to which such holder would otherwise be entitled. Medtronic will make available to the Exchange Agent any cash necessary for this purpose in consideration of the cancellation of such fractional shares.

47031

TRADEMARK

REEL: 1737 FRAME: 0350

OFFICERS' CERTIFICATE
TO
MERGER AGREEMENT
OF
MDT ACQUISITION CORP.
(a California corporation)
INTO
PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION
(a California corporation)


Gary P. East and Marga M. Bryant certify that:

1. They are the duly elected and acting President and Secretary, respectively, of Pudenz Schulte Medical Research Corporation, a California corporation ("PS Medical").
2. PS Medical's authorized capital stock consists of Common Stock, no par value, and Preferred Stock, no par value. PS Medical has 46,810 shares of Common Stock outstanding and zero shares of Preferred Stock outstanding.
3. The principal terms of the Merger Agreement attached hereto, providing for the merger of MDT Acquisition Corp. ("Subsidiary") with and into PS Medical, were approved by the unanimous vote of all of the outstanding shares of Common Stock which equalled or exceeded the vote required.
4. The percentage vote required was more than 50% of the Common Stock
5. The merger of Subsidiary with and into PS Medical has been approved by the Board of Directors of PS Medical.

IN WITNESS WHEREOF, the undersigned have executed this Officer's Certificate on October 27, 1995.



Gary P. East, President



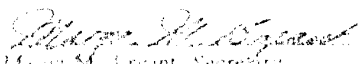
Marga M. Bryant, Secretary

The undersigned, Gary P. East and Marga M. Bryant, the President and Secretary, respectively, of PS Medical, each declares under penalty of perjury that the matters set out in the foregoing Officers' Certificate are true of his own knowledge.

Executed at Goleta, California on October 27, 1995.



Gary P. East, President



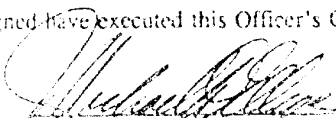
Marga M. Bryant, Secretary

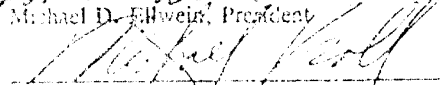
OFFICERS' CERTIFICATE
TO
MERGER AGREEMENT
OF
MDT ACQUISITION CORP.
(a California corporation)
INTO
PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION
(a California corporation)

Michael D. Ellwein and Michael R. Kroll certify that:

1. They are the duly elected and acting President and Secretary, respectively, of MDT Acquisition Corp., a California corporation ("Subsidiary").
2. Subsidiary's authorized capital stock consists of 2,500 shares of common stock, \$10 par value. Subsidiary has 100 shares of common stock outstanding.
3. The principal terms of the Merger Agreement attached hereto, providing for the merger of Subsidiary with and into Pudenz-Schulte Medical Research Corporation ("PS Medical"), were approved by the unanimous vote of all of the outstanding shares of Common Stock which equaled or exceeded the vote required.
4. The percentage vote required was more than 50% of the Common Stock.
5. The merger of Subsidiary with and into PS Medical has been approved by the Board of Directors of Subsidiary.
6. No vote of the shareholders of Medtronic, Inc., the parent corporation of Subsidiary and the corporation whose equity securities are to be issued in the Merger, is required in connection with the merger of Subsidiary with and into PS Medical.

IN WITNESS WHEREOF, the undersigned have executed this Officer's Certificate on October 27, 1995.


Michael D. Ellwein, President



Michael R. Kroll, Secretary

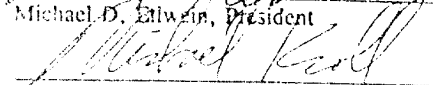
The undersigned, Michael D. Ellwein and Michael R. Kroll, the President and Secretary, respectively, of MDT Acquisition Corp. each declares under penalty of perjury that the matters set out in the foregoing Officers' Certificate are true of his own knowledge.

TRADEMARK

FILE: 1737 FRAME: 0352

Executed at Minneapolis, Minnesota on October 27, 1995.


Michael D. Ellwein, President


Michael R. Kroll, Secretary

TRADEMARK

REF: 1737 FRAME: 0353



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
APPLICATION FOR TRADEMARK REGISTRATION
PRINCIPAL REGISTER

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

Enclosed are the following:

1. Recordation Form Cover Sheet (Form PTO 1594) (in duplicate) and Certified Copy of the Merger Agreement from State of California, Secretary of State

The filing fee of \$315.00 should be charged to Deposit Account No. 13-2546. A duplicate copy of this letter is enclosed for charging purposes.

Respectfully submitted,

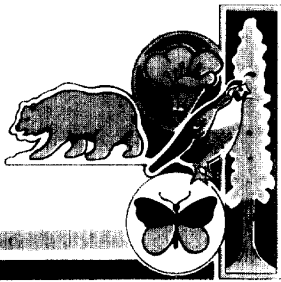
MEDTRONIC, INC.

Thomas F. Woods

CERTIFICATE UNDER 37 CFR SECTION 1.18: I hereby certify that this Transmittal and the documents referred to herein are being deposited with the United States Postal Service, in an envelope addressed: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on this 20 day of November, 1996.

Deb Kasmussen
Printed Name

Debra Kasmussen
Signature



State
of
California
SECRETARY OF STATE

MEDTRONIC PS MEDICAL, INC.
(FORMERLY: PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION)

I, *BILL JONES*, Secretary of State of the State of California,
hereby certify:

That the annexed transcript was prepared by and in
this office from the record on file, of which it purports to
be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California this

SEP 27 1996



Bill Jones

Secretary of State

AMENDMENT TO AGREEMENT AND PLAN OF REORGANIZATION

THIS AMENDMENT TO AGREEMENT AND PLAN OF REORGANIZATION (this "Amendment") is dated as of April 1, 1998 by and among Medtronic, Inc., a Minnesota corporation ("Medtronic"), Medtronic PS Medical, Inc., a California corporation ("PS Medical") and Gary P. East, individually and as attorney-in-fact for all of the former shareholders (the "Shareholders") of PS Medical (the "Shareholders' Representative").

WHEREAS, Medtronic, PS Medical and the Shareholders are parties to an Agreement and Plan of Reorganization dated as of September 29, 1995, pursuant to which MDT Acquisition Corp., a California corporation, was merged (the "Merger") with and into PS Medical (then known as Pudenz-Schulte Medical Research Corporation) (the "Reorganization Agreement"); and

WHEREAS, Section 2.3 of the Reorganization Agreement provides that each share of PS Medical Common Stock issued and outstanding immediately prior to the effective time of the Merger (the "Effective Time") was converted into the right to receive (on a per share basis), in addition to other merger consideration, a certain number of shares of Medtronic Common Stock equal to the "PMA Payment Amount" (as defined in the Reorganization Agreement) divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time, divided by the "Average Market Price" (as defined in the Reorganization Agreement) on the date of receipt of such "PMA Approval" (as defined in the Reorganization Agreement); and

WHEREAS, due to circumstances beyond the parties' control PMA Approval, if achieved, is not likely to be received by December 31, 1998; and

WHEREAS, in order to maintain good and harmonious relations between Medtronic, the former Shareholders who are involved in the active management of PS Medical, and the other Shareholders, Medtronic is willing to amend the Reorganization Agreement as set forth herein to extend the deadlines by which PMA Approval must be achieved in order for the Shareholders to receive a PMA payment pursuant to Section 2.3(c) of the Reorganization Agreement. Such amendment shall not constitute any admission of fault on the part of Medtronic, PS Medical or the Shareholders.

NOW, THEREFORE, in consideration of the foregoing premises and mutual representations, warranties, covenants and agreements contained herein, the parties hereto agree as follows:

1. Definitions. Except as set forth herein, capitalized terms used in this Amendment shall have the same meanings as set forth in the Reorganization Agreement.

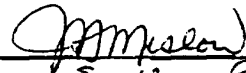
2. Amendment of "PMA Payment Amount". The definition of the term "PMA Payment Amount" set forth in Section 1.1 of the Reorganization Agreement is hereby amended to read in its entirety as follows:

“PMA Payment Amount” means: (i) U.S. \$10,000,000 if PMA Approval is received on or before December 31, 1999; (ii) U.S. \$8,000,000 if PMA Approval is received between January 1, 2000 and December 31, 2000, inclusive; (iii) U.S. \$5,000,000 if PMA Approval is received between January 1, 2001 and December 31, 2001, inclusive; or (iv) zero (0) if PMA Approval is not received before January 1, 2002.”


3. Reorganization Agreement Remains in Effect. Except as expressly provided herein, all provisions of the Reorganization Agreement shall remain in full force and effect and shall not be deemed amended by this Amendment. Without limitation of the foregoing, nothing in Exhibit A hereto shall be deemed to amend Section 2.12 of the Reorganization Agreement. The Shareholders’ Representative acknowledges and agrees that the process for obtaining PMA Approval is full of uncertainties and neither Medtronic nor PS Medical makes any assurance as to when or if PMA Approval will be received.

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be executed in a manner appropriate for each and to be dated as of the first above written.

MEDTRONIC, INC.

By: 
Its: Sn. Vice President

MEDTRONIC PS MEDICAL, INC.

By: 
Its: President and General Manager



Gary P. East, individually and as attorney-in-fact for the Shareholders pursuant to Section 13.13 of the Reorganization Agreement

FN 7790.06
SN 01

AGREEMENT AND PLAN OF REORGANIZATION
DATED SEPTEMBER 29, 1995
AMONG
MEDTRONIC, INC.,
MDT ACQUISITION CORP.,
PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION,
AND
THE SHAREHOLDERS OF
PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION

[REORG]

TRADEMARK
REEL: 1737 FRAME: 0358

*Original to [unclear]
1-10-94
BR*

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AGREEMENT AND PLAN OF REORGANIZATION

THIS AGREEMENT is dated as of September 29, 1995, by and among **MEDTRONIC, INC.**, a Minnesota corporation ("Medtronic"), **MDT ACQUISITION CORP.**, a California corporation ("Acquisition Subsidiary"), **PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION**, a California corporation ("PS Medical"), and those PS Medical shareholders listed on the signature page hereto (individually a "Shareholder"; collectively the "Shareholders").

WHEREAS, the Boards of Directors of Medtronic, Acquisition Subsidiary and PS Medical have approved the merger of Acquisition Subsidiary with and into PS Medical (the "Merger") upon the terms and subject to the conditions set forth herein and in the Plan of Merger (as defined below); and

WHEREAS, for federal income tax purposes, it is intended that the Merger shall qualify as a reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Shareholders collectively own one hundred percent (100%) of the issued and outstanding stock of PS Medical; and

WHEREAS, the parties hereto desire to make certain representations, warranties and agreements in connection with the Merger and also to prescribe various conditions to the Merger;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual representations, warranties, covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

1.1) Specific Definitions. As used in this Agreement, the following terms shall have the meanings set forth or as referenced below:

"Affiliate" of any entity means any other entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first entity. Control shall mean owning more than fifty percent (50%) of the total voting power of the entity.

"Agreement" means this Agreement and all Exhibits and Schedules hereto.

"Average Market Price" as of a certain date means the average of the "Daily Market Price" of Medtronic Common Stock for the 20 consecutive trading days ending on the fifth trading day immediately preceding such date, appropriately adjusted for any stock splits or stock dividends during such period. The "Daily Market Price" shall be equal to the average of the high and low sale prices of Medtronic Common Stock for each such trading day as reported on the New York Stock Exchange ("NYSE") Composite Tape, as reported in the Wall Street Journal.

"CE Mark Approval" means receipt of the CE marking for the PAR Device in accordance with the European Council Directive 90/385/EEC for Active Implantable Medical Devices (or if covered by the MDD, directive 93/42/EEC), by receiving from a European Notified Body the certificates, stating compliance with one of the Conformity Assessment procedures, indicated in Article 9, clause 1 of the Council Directive 90/385/EEC (or, if covered by the MDD, in Article 11 thereof) as referenced in the CE Mark Approval Plan, and completion and approval of local language labeling for the major European markets.

"CE Mark Approval Plan" means the CE Mark Approval Plan dated September 25, 1995 attached hereto as Schedule 1.2 for obtaining the CE Mark Approval.

"Certificates" means as defined in Section 2.7.

"CGCL" means the California General Corporation Law.

"Closing" and "Closing Date" have the meanings defined in Section 9.1.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidentiality Agreement" means as defined in Section 6.5.

"Contamination" means Hazardous Substances (as defined herein) in the soil, groundwater or air in excess of legal limits or requiring remedial activity under applicable Environmental Laws or Regulations.

"Effective Time" means as defined in Section 2.2.

"Employee Plans" means any health care plan or arrangement; life insurance or other death benefit plan; deferred compensation or other pension or retirement plan; stock option, bonus or other incentive plan; severance or early retirement plan; or other fringe or employee benefit plan or arrangement; or any employment or consulting contract or executive compensation agreement; whether the same are written or otherwise, formal or informal, voluntary or required by law or by PS Medical's policies or practices, including, without limitation, any "pension plan" as defined in Section 3(2) of ERISA which is not a Multiemployer Plan, and any "welfare plan" as defined in Section 3(1) of ERISA (whether or not any of the foregoing is funded), (i) to which PS Medical is a party or by which PS

Medical is bound; (ii) which PS Medical has at any time established or maintained for the benefit of or relating to present or former employees, leased employees, consultants, agents, and/or their dependents, or directors of PS Medical; or (iii) with respect to which PS Medical has made any payments or contributions since January 1, 1990.

"Environmental Laws or Regulations" means any one or more of the following: the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. § 9601 et seq.; the Federal Resource Conservation and Recovery Act of 1976 ("FRCRA"), 42 U.S.C. § 6921 et seq.; the Clean Water Act, 33 U.S.C. § 1321 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; any other federal, state, county, municipal, local or other statute, law, ordinance or regulation which may relate to pesticides, agricultural or industrial chemicals, wastes, Hazardous Substances (as defined herein), or the environment; and all regulations promulgated by a regulatory body pursuant to any of the foregoing statutes, laws, regulations, or ordinances.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Escrow Agreement" means as defined in Section 10.4.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the regulations promulgated thereunder.

"Exchange Agent" means as defined in Section 2.7(a).

"FDA" means the United States Food and Drug Administration.

"FTC" means the United States Federal Trade Commission.

"HSR Act" means that Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the regulations promulgated thereunder.

"Hazardous Substance" means asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, chemical waste, radioactive materials, explosives, known carcinogens, petroleum products, pesticides, fertilizers, or other substance which is toxic or hazardous, or which is a pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or contaminant in, or the use, transportation, storage, release or disposal of which is regulated by, any Environmental Laws or Regulations.

"Intellectual Property" means letters patent and patent applications; trademarks, service marks and registrations thereof and applications therefor; copyrights and copyright registrations and applications; and/or discoveries, ideas, technology, know-how, trade secrets, processes, formulas, drawings and designs, computer programs or software; and all amendments, modifications, and improvements to any of the foregoing.

"Inventories" means finished goods, raw materials and ingredients, and work-in-process.

"IRS" means the United States Internal Revenue Service.

"Liens" means liens, mortgages, charges, security interests, claims, voting trusts, pledges, encumbrances, options, assessments, restrictions, or third party or spousal interests of any nature.

"Medtronic Common Stock" means common stock of Medtronic, par value \$.10 per share.

"Merger" means as defined in the Recitals hereto.

"Merger Shares" means the shares of Medtronic Common Stock issued to the Shareholders in the Merger, or any other shares of Medtronic Common Stock issued in respect of such shares in connection with any stock split, stock dividend, reclassification, recapitalization, or similar event.

"Merger Share Issuance Date" means: with respect to the Merger Shares issued pursuant to Section 2.3(a), the Effective Time; with respect to the Merger Shares issued pursuant to Section 2.3(b), the date of receipt of the CE Mark Approval; and with respect to the Merger Shares issued pursuant to Section 2.3(c), the date of receipt of the PMA Approval.

"Multiemployer Plan" means as defined in Section 3(37) of ERISA.

"PAR Device" means PS Medical's patient activated reservoir device in its product specifications as of the date hereof, as such device may be modified hereafter.

"Plan of Merger" means the Merger Agreement attached hereto as **Exhibit A**.

"PMA Approval" means pre-market or equivalent approval by the FDA for commercial sale in the U.S. of the PAR Device for the indications described in PS Medical's IDE #G940172.

"PMA Approval Plan" means the PMA Approval Plan dated September 15, 1995 attached hereto as Schedule 1.3 for obtaining the PMA Approval.

"PMA Payment Amount" means: (i) U.S.\$10,000,000 if PMA Approval is received on or before December 31, 1998; (ii) U.S.\$8,000,000 if PMA Approval is received between January 1, 1999 and December 31, 1999, inclusive; (iii) U.S.\$5,000,000 if PMA Approval is received between January 1, 2000 and December 31, 2000, inclusive; or (iv) zero (0) if PMA Approval is not received before January 1, 2001.

"PS Medical Common Stock" means common stock of PS Medical, no par value per share.

"PS Medical Options" means as defined in Section 2.4.

"Product Liability" means any liability, claim or expense (including attorneys' fees) arising in whole or in part out of a breach of any product warranty (whether express or implied), strict liability in tort, negligent manufacture of product, negligent provision of services, product recall, or any other liability arising from the manufacturing, packaging, labeling (including instructions for use), or sale of products.

"Registrable Shares" means issued and outstanding Merger Shares; provided, however, that the Escrow Shares shall not become Registrable Shares unless and until distributed by Escrow Agent to the Shareholders pursuant to Section 10.4, and further provided, that the Merger Shares shall cease to be Registrable Shares upon any sale pursuant to a registration statement under the Securities Act or upon all such shares held by a particular Shareholder becoming eligible for sale in a single transaction under Rule 144 under the Securities Act.

"Revenue Measurement Period" means each Medtronic fiscal quarter (or portion thereof) between the Effective Time and the five-year anniversary of the Effective Time.

"Schedule 3.8A Financial Statements" means as defined in Section 3.8.

"SEC" means the Securities and Exchange Commission, or any other Federal agency at the time administering the Securities Act.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Shareholders' Representative" means the person designated in Section 13.13 as the Shareholders' attorney-in-fact for purposes of this Agreement.

"Surviving Corporation" means as defined in Section 2.1.

"Taxes" means all taxes, penalties, interest, fines, duties, withholdings, assessments, and charges assessed or imposed by any federal, state, local or foreign governmental authority.

"Tax" shall also include any liability arising as a result of being (or ceasing to be) a member of any affiliated, consolidated, combined, or unitary group as well as any liability under any tax allocation, tax sharing, tax indemnity or similar agreement.

"Vascular Access Devices" means present or future products within the categories described in Schedule 1.1 that are designed and developed entirely by PS Medical (provided that such products may utilize the license from BSI Corporation), with respect to which the Shareholders will be paid 15% of revenues pursuant to Section 2.3(d). For products described in Schedule 1.1 that are designed or developed substantially by, or manufactured entirely or in substantial part by, PS Medical but result from a license (other than current or future licenses from BSI Corporation pursuant to the Master License Agreement), an acquisition, or a technology transfer from elsewhere in Medtronic, it is understood that an adjustment to the percentage rate may be made at the sole discretion of Medtronic. In such

event, reasonable efforts will be made by Medtronic (in its sole discretion) to give consideration to the Shareholders by paying a percentage of revenues (in a range from 0% to 15%) at a level consistent with the value added by the event.

"Vascular Access Device Revenues" for a particular Revenue Measurement Period means Net Sales of Vascular Access Devices during such Revenue Measurement Period. For purposes of this definition, "Net Sales of Vascular Access Devices" during such period means the amount that Medtronic or any Affiliate of Medtronic invoices to third parties (eliminating transactions among Affiliates of Medtronic and/or Medtronic) for sales (excluding sales for use in clinical trials) of Vascular Access Devices during such period, excluding sales, use, occupation or excise taxes, freight, duty or insurance included therein, returns, discounts, and allowances, credits or repayments due to rejections, defects or returns, and net of amounts previously included in Net Sales of Vascular Access Devices that were written-off by Medtronic or such Affiliate of Medtronic during such period as uncollectible. Any amounts previously written off that are subsequently collected (net of collection expenses) shall be added to New Sales of Vascular Access Devices in the Revenue Measurement Period when collected (or, if collected after the five-year anniversary of the Effective Time, shall be subject to prompt payment of the amount that would have been due pursuant to Section 2.3(d) had the amount been collected prior to such anniversary, subject to the \$15,000,000 limitation in Section 2.3(d)). In the event Medtronic combines a Vascular Access Device with other Medtronic products in a package in which the individual Vascular Access Device is not priced separately, then Net Sales of Vascular Access Devices attributable to such combined package of products shall be established by Medtronic in good faith. If the Vascular Access Device component of such package is sold as an individual product by Medtronic in the same geographic area, then Net Sales of Vascular Access Devices attributable to such combined package shall be based on the net selling price of such Vascular Access Device when sold individually in such geographic area. Vascular Access Device Revenues denominated in currencies other than U.S. Dollars shall be converted into U.S. Dollars according to Medtronic's standard accounting policy for conversion of foreign currencies.

1.2) Definitional Provisions.

- (a) The words "hereof," "herein," and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provisions of this Agreement.
- (b) Terms defined in the singular shall have a comparable meaning when used in the plural, and vice-versa.
- (c) References to the "knowledge" of PS Medical shall refer to the actual knowledge of any of PS Medical's officers, "director"-level employees, or member of its Board of Directors or of any of the Shareholders, or the knowledge which any such person would reasonably be expected to have assuming reasonable inquiry of any

facts or circumstances actually known to and recognized by such person to create significant doubt concerning the accuracy of any representation, warranty or statement without regard to such "knowledge" qualifier.

(d) References to an "Exhibit" or to a "Schedule" are, unless otherwise specified, to one of the Exhibits or Schedules attached to or referenced in this Agreement, and references to an "Article" or a "Section" are, unless otherwise specified, to one of the Articles or Sections of this Agreement.

(e) The term "person" includes any individual, partnership, joint venture, corporation, trust, unincorporated organization or government or any department or agency thereof.

ARTICLE II THE MERGER; CONVERSION OF SHARES

2.1) The Merger. Subject to the terms and conditions of this Agreement and the Plan of Merger, at the Effective Time, Acquisition Subsidiary shall be merged with and into PS Medical in accordance with the provisions of the CGCL, whereupon the separate corporate existence of Acquisition Subsidiary shall cease, and PS Medical shall continue as the surviving corporation (the "Surviving Corporation"). From and after the Effective Time, the Surviving Corporation shall possess all the rights, privileges, powers and franchises and be subject to all the restrictions, disabilities and duties of PS Medical and Acquisition Subsidiary, all as more fully described in the CGCL.

2.2) Effective Time. As soon as practicable after each of the conditions set forth in Article VII and Article VIII has been satisfied or waived, PS Medical and Acquisition Subsidiary will file, or cause to be filed, with the Secretary of State of the State of California the Plan of Merger and officers' certificates attached thereto in accordance with Section 1103 of the CGCL. The Merger shall become effective at the time such filing is made or, if agreed to by Medtronic and PS Medical, such later time or date set forth in the Plan of Merger (the "Effective Time").

2.3) Conversion of PS Medical Shares. At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of PS Medical Common Stock issued and outstanding immediately prior to the Effective Time, other than any Dissenting Shares, shall be converted into the right to receive the following (on a per share basis):

(a) as soon as practicable after the Effective Time and subject to the escrow set forth in Section 10.4, such number of shares of Medtronic Common Stock equal to U.S. \$70,000,000 divided by the number of outstanding shares of PS Medical

Common Stock at the Effective Time, divided by the Average Market Price at the Effective Time;

(b) if the CE Mark Approval is received prior to July 1, 1997, as soon as practicable after receipt of the CE Mark Approval, such number of shares of Medtronic Common Stock equal to U.S.\$5,000,000 divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time, divided by the Average Market Price on the date of receipt of such CE Mark Approval;

(c) if and when the PMA Approval is received, as soon as practicable thereafter, such number of shares of Medtronic Common Stock equal to the PMA Payment Amount divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time, divided by the Average Market Price on the date of receipt of such PMA Approval; and

(d) within 45 days after the end of each Revenue Measurement Period, cash in an amount equal to 15% of the Medtronic's Vascular Access Device Revenues (or such other applicable percentage pursuant to the definition of "Vascular Access Devices") during such immediately preceding Revenue Measurement Period, divided by the number of outstanding shares of PS Medical Common Stock at the Effective Time; provided that the aggregate amount of cash paid pursuant to this subsection (d) with respect to all Revenue Measurement Periods shall in no event exceed \$15,000,000.

The conversion ratios to be calculated pursuant to (a), (b), and (c) above shall be calculated and rounded to six decimal places, with the sixth decimal place rounded up if the seventh decimal place is 5 or more. Each such share of Medtronic Common Stock issued pursuant to this Section shall be fully paid and nonassessable. Notwithstanding the foregoing, if Medtronic is acquired in a merger in which all outstanding shares of Medtronic Common Stock are converted into the right to receive stock (or stock and other property) of the acquiror, then, immediately prior to such acquisition, the Merger Shares issuable pursuant to Section 2.3(b) and 2.3(c) above shall be issued (based on the Average Market Price at such time) into escrow upon terms substantially identical to the Escrow Agreement, and the stock (or stock and other property) into which such escrowed Merger Shares are converted shall be held by the Escrow Agent until the conditions set forth in Sections 2.3(b) and 2.3(c), respectively, are satisfied.

2.4) Other PS Medical Shares and Stock Options. At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each outstanding share, if any, of any other class of capital stock of PS Medical (other than PS Medical Common Stock) shall be cancelled without payment of any consideration therefor and without any conversion thereof. Prior to the Effective Time, all outstanding options, warrants or other rights ("PS Medical Options") to purchase shares of PS Medical Common Stock, if any, shall either be exercised or shall expire. At or immediately prior to the Effective Time,

PS Medical shall terminate all plans, if any, of PS Medical under which PS Medical Common Stock or PS Medical Options may be granted and shall cancel and terminate each outstanding option, performance share, or other right granted under any such plans, and shall take all other actions with respect to such options, performance shares, and other rights required under the terms of any such plans in each case in accordance with the terms of such plans or pursuant to duly-adopted amendments to such plans, which shall have been executed or consented to in writing by all affected option holders or participants.

2.5) Acquisition Subsidiary Shares. At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of common stock of Acquisition Subsidiary, par value \$.10 per share, issued and outstanding immediately prior to the Effective Time shall be converted into one share of the common stock of the Surviving Corporation (the "Surviving Corporation Common Stock").

2.6) Dissenting Shares. The Shareholders represent and warrant that the holders of all outstanding PS Medical Common Stock have approved the Merger and that, therefore, there are no shares of PS Medical Common Stock with respect to which the holders thereof have the right to dissent pursuant to Section 1300 of the CGCL ("Dissenting Shares").

2.7) Exchange of PS Medical Common Stock.

(a) Promptly after the Effective Time, Medtronic shall cause Medtronic's stock transfer agent or such other person as Medtronic may appoint to act as exchange agent (the "Exchange Agent") to mail or otherwise deliver to each holder of record of a certificate or certificates that immediately prior to the Effective Time represented outstanding shares of PS Medical Common Stock (the "Certificates") a form letter of transmittal (which shall specify that delivery shall be effective, and risk of loss and title to the Certificate(s) shall pass, only upon delivery of the Certificate(s) to the Exchange Agent or to Medtronic or Acquisition Subsidiary) and instructions for such holder's use in effecting the surrender of the Certificates in exchange for certificates representing shares of Medtronic Common Stock.

(b) As soon as practicable after each Merger Share Issuance Date, the Exchange Agent shall deliver to holders of shares of PS Medical Common Stock, upon surrender to the Exchange Agent of one or more Certificates for cancellation, together with a duly-executed letter of transmittal, (i) one or more certificates representing the number of whole shares of Medtronic Common Stock into which the shares represented by the Certificate(s) shall have been converted pursuant to Section 2.3(a), Section 2.3(b) or Section 2.3(c), respectively and (ii) a bank check in the amount of cash representing payment in lieu of any fractional Merger Share pursuant to Section 2.7(f) (relating to fractional shares). Notwithstanding the foregoing, the aggregate number of shares of Medtronic Common Stock issued pursuant to Section 2.3(a) shall be distributed in two or more installments. The first such installment shall be distributed as soon as practicable following the Effective Time and shall

consist of the number of such shares equal to the aggregate number of shares issued pursuant to Section 2.3 (a) less the number of Escrow Shares (as defined in Section 10.4). A second such installment shall be distributed as soon as practicable following the expiration of the Survival Period (as defined in Section 13.3) and shall consist of the number of Escrow Shares that exceed the number of Escrow Shares for which claims for Indemnifiable Losses (as defined in Section 10.1) have been made and have not been resolved. Thereafter, subsequent installments shall be distributed out of any remaining Escrow Shares at such times as outstanding claims for Indemnifiable Losses made by Medtronic during the Survival Period are resolved, until all such claims are resolved. The final installment shall consist of the number of Escrow Shares remaining after satisfaction of all claims for Indemnifiable Losses, if any, by Medtronic. All of such installments shall be distributed to the Shareholders ratably, in proportion to the number of shares of PS Medical Common Stock held by them at the Effective Time. In the event of a transfer of ownership of PS Medical Common Stock that is not registered in the transfer records of PS Medical, it shall be a condition to the issuance of shares of Medtronic Common Stock that the Certificate(s) so surrendered shall be properly endorsed or be otherwise in proper form for transfer and that such transferee shall (i) pay to the Exchange Agent any transfer or other taxes required, or (ii) establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.

(c) Holders of PS Medical Common Stock will be entitled to any dividends pertaining to the Merger Shares received in exchange therefor that become payable to holders of record of Medtronic Common Stock as of a record date that follows the respective Merger Share Issuance Date, which dividends shall be delivered to holders of PS Medical Common Stock (or, with respect to Escrow Shares, to the Escrow Agent) but only after they have surrendered their Certificates representing shares of PS Medical Common Stock for exchange. Subject to the effect, if any, of applicable law and the provisions of the Escrow Agreement described in Section 10.4, the Exchange Agent shall receive, hold, and remit any such dividends to each Shareholder entitled thereto, without interest. Holders of PS Medical Common Stock will not be entitled, however, to dividends that become payable after the respective Merger Share Issuance Date to holders of record of Medtronic Common Stock as of a record date prior to the respective Merger Share Issuance Date.

(d) All shares of Medtronic Common Stock issued pursuant to Section 2.3 (including any cash paid for fractional shares pursuant to Section 2.7(f) hereof) together with cash payments pursuant to Section 2.3(d) shall be deemed to have been issued and paid in full satisfaction of all rights pertaining to such shares of PS Medical Common Stock.

(e) After the Effective Time, there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of PS Medical Common Stock that were outstanding immediately prior to the Effective

Time. If, after the Effective Time, Certificates representing such shares are presented to the Surviving Corporation, they shall be cancelled and exchanged as provided in this Article II. As of the Effective Time, the holders of Certificates representing shares of PS Medical Common Stock shall cease to have any rights as shareholders of PS Medical, except such rights, if any, as they may have pursuant to the CGCL. Except as provided above, until such Certificates are surrendered for exchange, each such Certificate shall, after the Effective Time, represent for all purposes only the right to receive (i) the number of whole shares of Medtronic Common Stock into which the shares of PS Medical Common Stock shall have been converted by the Merger as provided in Section 2.3(a), (b) and (c) hereof, (ii) the right to receive the cash value of any fraction of a share of Medtronic Common Stock as provided in Section 2.7(f) hereof, and (iii) the right to receive a portion of Vascular Access Device Revenues for the five years immediately following the Effective Time pursuant to Section 2.3(d).

(f) No fractional shares of Medtronic Common Stock and no certificates or scrip therefor, or other evidence of ownership thereof, shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of Medtronic shall relate to any fractional share, and such fractional share interests shall not entitle the owner thereof to vote or to any rights of a shareholder of Medtronic. All fractional shares of Medtronic Common Stock to which a holder of PS Medical Common Stock would otherwise be entitled with respect to each Merger Share Issuance Date shall be aggregated. If a fractional share results from such aggregation, then (in lieu of such fractional share) the Exchange Agent shall pay to each holder of shares of PS Medical Common Stock who otherwise would be entitled to receive such fractional share of Medtronic Common Stock an amount of cash (without interest) determined by multiplying (i) the Average Market Price at such Merger Share Issuance Date by (ii) the fractional share of Medtronic Common Stock to which such holder would otherwise be entitled. Medtronic will make available to the Exchange Agent any cash necessary for this purpose in consideration of the cancellation of such fractional shares.

(g) In the event any Certificates shall have been lost, stolen or destroyed, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate, upon the making of an affidavit of that fact by the holder thereof, such shares of Medtronic Common Stock and cash for fractional shares, if any, as may be required pursuant to this Article II; provided, however, that Medtronic may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed Certificate to deliver a bond in such sum as Medtronic may direct as indemnity against any claim that may be made against Medtronic or the Exchange Agent with respect to the Certificate alleged to have been lost, stolen or destroyed.

(h) Each person entitled to receive shares of Medtronic Common Stock pursuant to this Article II shall receive together with such shares the number of Medtronic Common Stock Purchase Rights (pursuant to the Rights Agreement dated as of June 27, 1991, between Medtronic and Norwest Bank Minnesota, N.A., the "Medtronic Rights Plan") per share of Medtronic Common Stock equal to the number of Medtronic Common Stock Purchase Rights associated with one share of Medtronic Common Stock at the respective Merger Share Issuance Date.

2.8) Assignment of Deferred Payments. No portion of the Shareholders' rights or interest in the Merger Shares or cash which may be issued or paid pursuant to Section 2.3 may be sold, assigned, pledged or otherwise transferred; provided that such rights or interest of any Shareholder may be transferred by will, by the laws of intestate succession, or by operation of law.

2.9) Articles of Incorporation of the Surviving Corporation. The Articles of Incorporation of Acquisition Subsidiary, as in effect immediately prior to the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended in accordance with applicable law; provided that upon the Effective Time, the name of the Surviving Corporation shall be changed to "Medtronic PS Medical, Inc."

2.10) Bylaws of the Surviving Corporation. The Bylaws of Acquisition Subsidiary, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Corporation until thereafter amended in accordance with applicable law.

2.11) Directors and Officers of the Surviving Corporation. The directors and officers of Acquisition Subsidiary immediately prior to the Effective Time shall be as set forth in Plan of Merger.

2.12) Operation of Surviving Corporation. It is a good faith present intention of Medtronic to support the PS Medical business in the marketing, sale and development of Vascular Access Devices at the general levels set forth in the Vascular Access Plan attached hereto as Schedule 2.12 (the "VAD Business Plan") and, in connection with the development of the PAR Device, to support PS Medical in the pursuit of the CE Mark Approval Plan and the PMA Approval Plan (together the "Plans") with the objective of obtaining the CE Mark Approval and the PMA Approval within the time schedules set forth in the Plans. It is understood by the parties hereto that Medtronic may change the foregoing Plans in any and all respects in Medtronic's sole discretion in the event that Medtronic determines that such changes are necessary in light of additional information or changed facts or circumstances; provided, however, that Medtronic will not make any such change which is materially adverse to the accomplishment of the Plans without prior consultation with the Shareholders' Representative. Neither Medtronic nor the Surviving Corporation shall have any obligation to ensure when the CE Mark Approval or the PMA Approval is received or that such approvals are ever received, nor any obligation to achieve any level of or to maximize Medtronic's Vascular Access Device Revenues. Further, Medtronic may, in its sole

discretion, decide to research, develop and/or market drugs, devices or other products which may compete in whole or in part with the PAR Device or the Vascular Access Devices and such drugs, devices and other products may be developed or acquired by Medtronic or its Affiliates now and in the future. The Shareholders acknowledge and agree that the business and affairs of the Surviving Corporation will be operated by the management of the Surviving Corporation, in their sole discretion subject to the ultimate direction and control of the Surviving Corporation's Board of Directors, and that as sole shareholder of the Surviving Corporation, Medtronic shall have complete discretion regarding the election of directors and officers of the Surviving Corporation. Notwithstanding the foregoing provisions of this Section 2.12, in determining what efforts will be made to obtain the CE Mark Approval and the PMA Approval and to support the PS Medical business in the marketing, sale and development of Vascular Access Devices, (a) no consideration shall be given by Medtronic to any detriment to Medtronic or its shareholders from the issuance of shares of Medtronic Common Stock pursuant to Section 2.3(b) upon receipt of the CE Mark Approval or pursuant to Section 2.3(c) upon receipt of the PMA Approval, or from the cash payments pursuant to Section 2.3(d), and (b) no consideration shall be given by Medtronic to any possible detriment to the sales of Medtronic or any Medtronic Affiliate of other products with which the PAR Device or Vascular Access Devices might be currently or potentially competitive. Until such time as the CE Mark Approval and the PMA Approval have been obtained (or January 1, 2001, if earlier), Medtronic shall not assign or otherwise transfer its stock in the Surviving Corporation (except to a Medtronic Affiliate), nor shall the Surviving Corporation transfer its rights to the PAR Device, without the prior written consent of the Shareholders' Representative, which consent shall not be unreasonably withheld, taking into account the intentions and abilities of the proposed assignee or transferee with regard to obtaining the CE Mark Approval and the PMA Approval.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF PS MEDICAL AND THE SHAREHOLDERS

PS Medical represents and warrants to Medtronic as of the date hereof as follows, and acknowledges that the same shall be deemed to have been relied upon by Medtronic and shall survive the Closing of this transaction as provided in Section 13.3 of this Agreement. Each Shareholder, severally and not jointly, represents and warrants to Medtronic as of the date hereof as set forth in Sections 3.4, 3.6, and 3.7 with respect to such Shareholder and with respect to the PS Medical Common Stock represented to be owned by such Shareholder and acknowledges that the same shall be deemed to have been relied upon by Medtronic and shall survive the Closing of this transaction as provided in Section 13.3 of this Agreement. For purposes of this Article III, references to "PS Medical" shall be deemed to include PS Medical's subsidiary named in Section 3.5.

3.1) Listing of Certain Assets and Data. Attached hereto as Schedules 3.1A through 3.1L are lists, which are true and complete as of the date hereof, of the matters set forth in the following subsections (a) through (l).

(a) Real Property. Schedule 3.1A sets forth a description of all real property owned, leased or subject to option, of record or beneficially, by PS Medical or otherwise used by PS Medical in the conduct of its business, stating the ownership status and a brief description of all buildings and structures located or planned for construction thereon. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of the purchase agreements, leases, or options relating to such real property.

(b) Equipment. Schedule 3.1B sets forth a list of all material items of machinery, equipment, tools and dies, furniture, fixtures, spare parts, vehicles and other similar property and assets owned, leased or otherwise used by PS Medical, specifically identifying and describing, those items with an original cost to, or total lease payments by, PS Medical in excess of \$10,000, setting forth with respect to all such listed property a summary description of all Liens relating thereto (other than liens for taxes due but not yet payable), identifying the parties thereto, the rental or other payment terms, expiration date and cancellation and renewal terms thereof. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all currently effective leases, conditional sales agreements or other similar documents concerning the items listed in Schedule 3.1B.

(c) Patents, Trademarks, Formulas, Etc. Schedule 3.1C sets forth a list of all of PS Medical's patents, trade names, material trademarks, material service marks, material copyrights, and applications or registrations for any of the foregoing, and any licenses pursuant to which any of the foregoing is used. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all issuances, registrations, applications and certificates regarding such intellectual property, true and complete copies of all contracts with employees or others relating in whole or in part to disclosure, assignment or patenting of inventions or discoveries, confidential or proprietary information, product formulas or other know-how, and true and complete copies of all patent, trademark, trade name, copyright, trade secret or other intellectual property licenses granted at any time by or to PS Medical.

(d) Certain Leases, Agreements, Etc. Schedule 3.1D sets forth a list (including, in the case of oral arrangements, a written description of all material terms thereof) of each lease, contract, agreement or other commitment, written or otherwise, to which PS Medical is a party (other than leases, contracts, agreements or commitments furnished pursuant to other paragraphs of this Section 3.1) and which is in any way not yet performed, involving:

(i) The purchase of any services, raw materials, supplies or equipment, exclusive of (x) purchase orders for the purchase of products or services required in the ordinary course of business involving payment of less than \$10,000 per annum or an aggregate of less than \$20,000, and (y) purchase orders not in the ordinary course of business involving payment of less than \$3,000 individually or in aggregate for similar items;

(ii) The sale of assets, products or services involving a value estimated at more than \$10,000, or any contract for provision of service warranties, sales credits, product returns, or discounts, warehouse allowances, advertising allowances or promotional services; or

(iii) any distributor or sales representative or similar broker, dealer or agent of PS Medical's products.

Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all written agreements identified in **Schedule 3.1D**.

(e) Permits, Licenses, Etc. **Schedule 3.1E** sets forth a list of all permits, licenses, approvals or similar permissions, including those involving the FDA or similar state or foreign agencies, held by PS Medical or by any distributor, sales representative or similar broker, dealer or agent of PS Medical's products. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all permits, licenses, approvals or other documents identified in **Schedule 3.1E**.

(f) Banks and Depositories. **Schedule 3.1F** sets forth a list of each bank, broker or other depository with which PS Medical has an account or safe deposit box, the names and numbers of such accounts or boxes and the names of all persons authorized to draw or execute transactions on such accounts.

(g) Loans and Credit Agreements, Etc. **Schedule 3.1G** sets forth a list of all outstanding mortgages, promissory notes, evidences of indebtedness, deeds of trust, indentures, loan or credit agreements or similar instruments for money borrowed, excluding normal trade credit, to which PS Medical is a party (as lender or borrower), written or otherwise, and all amendments or modifications, if any, thereof. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all documents identified in **Schedule 3.1G**.

(h) Insurance Policies and Claims. **Schedule 3.1H** sets forth a list, including the term, coverages, premium rates, limits and deductibles thereof, of all policies of insurance maintained by PS Medical with respect to PS Medical and covering their respective officers, directors, employees, agents, properties, buildings, machinery, equipment, furniture, fixtures or operations and a description of each claim made by

PS Medical under any such policy of insurance within the past three years, describing such claim and the amount thereof. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all policies of insurance identified in **Schedule 3.1H**, and true and complete copies of all documentation regarding claims made thereunder.

(i) Certain Employees. **Schedule 3.1I** sets forth (i) the name and current annual salary rate of each director, officer or employee of PS Medical whose total remuneration for PS Medical's last fiscal year was, or for the current year has been set at, in excess of \$50,000, together with a summary of the bonuses, additional compensation and other benefits, if any, paid or payable to such persons as of the date hereof or in the future; (ii) the name of each employee and each individual to whom employment has been offered and who has accepted such offer, including scheduled starting date, and (iii) the names of all former employees whose employment has terminated either voluntarily or involuntarily during the preceding twelve-month period.

(j) Employee Plans. **Schedule 3.1J** sets forth a list of all Employee Plans and any related insurance contracts and trust and custodial agreements. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all documents listed in **Schedule 3.1J**.

(k) Powers of Attorney. **Schedule 3.1K** sets forth the names of all persons, if any, holding powers of attorney from PS Medical and a description of the scope of each such power of attorney.

(l) Taxes. **Schedule 3.1L** sets forth a list of (i) all tax, assessment or information reports and returns filed by or on behalf of PS Medical or its predecessors with any jurisdiction during the last three years, and (ii) a list of all tax or assessment elections of PS Medical in effect. Prior to the date of this Agreement, PS Medical has delivered to Medtronic true and complete copies of all documents listed in **Schedule 3.1L** and all material correspondence to or from taxing authorities within six years prior to the date of this Agreement, and has made available to Medtronic for review and copying all working papers of persons who prepared any of the documents listed in **Schedule 3.1L**.

3.2) Organization; Directors and Officers. PS Medical is a corporation duly organized, validly existing and in good standing under the laws of the State of California, and has all necessary power and authority, corporate and otherwise, to own its properties and assets and conduct the business presently being conducted by it. PS Medical is qualified or licensed to transact business as a foreign corporation in each jurisdiction in which the character of PS Medical's properties or the nature of its activities makes any such qualification necessary and where the failure to be so qualified would have a material adverse effect upon PS Medical or PS Medical's business. The jurisdictions in which PS Medical is

qualified are listed on **Schedule 3.2**. **Schedule 3.2** also sets forth a list of the directors and officers (with all titles and positions indicated) of PS Medical. PS Medical has heretofore delivered to Medtronic complete and correct copies of its Articles of Incorporation and all amendments thereto, and of its Bylaws and all amendments thereto and any other governing documents or instruments.

3.3) Capital Stock. PS Medical's authorized capital stock consists of (i) 500,000 shares of Common Stock, no par value, and (ii) 1,000,000 shares of Preferred Stock, no par value, 5,823 shares of which have been designated as Class A Preferred Stock. 46,810 shares of PS Medical Common Stock and zero shares of PS Medical Preferred Stock are issued and outstanding and owned by the Shareholders in the amounts set forth on **Schedule 3.3**. Each Shareholder is a resident of the State of California. Except as set forth in **Schedule 3.3**, there are no PS Medical Options outstanding and there are no plans, contracts or commitments providing for the issuance or granting of PS Medical capital stock or PS Medical Options. There is no indebtedness of PS Medical convertible into PS Medical capital stock. All issued and outstanding shares of capital stock of PS Medical have been duly authorized and validly issued, and are fully paid and nonassessable. All issuances of PS Medical Stock were made in compliance with the Securities Act and with all applicable state and foreign laws and regulations. There are no preemptive rights in respect of any capital stock of PS Medical.

3.4) Title to PS Medical Stock; Authority of the Shareholders. Each Shareholder has valid and unencumbered title to all of the PS Medical Stock and all outstanding PS Medical Options listed as being held by such Shareholder on **Schedule 3.3**, free and clear of any Liens (except, with respect to Shareholders who are married individuals, the community property rights of such Shareholder's spouse). Each Shareholder has full legal and equitable right, power, and authority (without the consent or approval of any other person) to enter into this Agreement and to perform all of such Shareholder's obligations under this Agreement. Upon completion of the Closing, Medtronic shall have acquired, free and clear of any Liens, full legal and beneficial title to the PS Medical Stock listed as being held by such Shareholder on **Schedule 3.3** and to all PS Medical capital stock acquired by such Shareholder upon exercise by such Shareholder at or prior to the Closing of any PS Medical Options held by such Shareholder. Any outstanding PS Medical Options which are not exercised at or prior to the Closing shall, upon completion of the Closing, terminate, free of any Liens. The PS Medical Common Stock listed in **Schedule 3.3** constitutes all of the Shareholders' right, title and interest in PS Medical. Each Shareholder will, upon request, execute and deliver any additional documents deemed by Medtronic to be necessary or desirable to complete the cancellation of all PS Medical capital stock and any PS Medical Options of such Shareholder. Each Shareholder understands and acknowledges that Medtronic, PS Medical and their respective counsel will be acting in material reliance upon the truth and accuracy of all representations of the Shareholder set forth in this Agreement or in any document, certificate or schedule delivered pursuant to this Agreement.

3.5) Subsidiaries. PS Medical has no ownership or equity interest, direct or indirect, in any other business, corporation, joint venture, partnership or proprietorship, except for PS Medical Research Corporation, a U.S. Virgin Islands corporation wholly owned by PS Medical. The business carried on by PS Medical has not been conducted through any other direct or indirect subsidiary or Affiliate of PS Medical.

3.6) Authorization and Binding Obligation. The execution, delivery and performance of this Agreement and the transactions contemplated hereby have been duly and validly authorized and approved by all requisite corporate action on the part of PS Medical and by all requisite corporate, partnership, or other action on the part of each Shareholder that is not a natural person. The execution of this Agreement by the Shareholders constitutes all necessary approval by the shareholders of PS Medical under the CGCL. PS Medical and each Shareholder has all requisite power and authority to do and perform all acts and things required to be done by it under this Agreement and the agreements contemplated hereby. This Agreement constitutes and, when executed, the agreements contemplated hereby will constitute, the valid and binding obligations of PS Medical and each of the Shareholders, enforceable in accordance with its and their respective terms except as may be limited by laws affecting creditors rights generally or by judicial limitations on the right to specific performance or other equitable remedies.

3.7) Consents Required. Except for (i) any applicable requirements of the Securities Act, the Exchange Act, state securities laws, and the HSR Act; (ii) the filing and recordation of appropriate merger documents as required by the CGCL; and (iii) any items set forth in **Schedule 3.7**, the execution and delivery of this Agreement, the conversion of the PS Medical Stock, the termination of any PS Medical Options which remain outstanding immediately prior to the Closing, and the consummation of the transactions contemplated hereby in compliance with the terms and provisions hereof, by PS Medical and each of the Shareholders will not:

(a) Conflict with or result in a breach of the terms, conditions or provisions of or constitute a default under the Articles of Incorporation or Bylaws or other governing instruments of PS Medical or of any Shareholder that is not a natural person, or any material agreement, mortgage, lease, judgment, order, award, decree or other instrument or restriction to which PS Medical, or any of the Shareholders is a party or by which PS Medical or any of the Shareholders or any of its or their assets is bound or affected;

(b) Violate any statute, rule, regulation, order or decree of any federal, state, local or foreign body or authority (including, but not limited to, the FDA or any nongovernmental self-regulatory agency) by which PS Medical or any of its properties or assets may be bound;

(c) Require any affirmative approval, consent, authorization or other order or action of any court, governmental authority, regulatory body, creditor or any other person; or

(d) Give any party with rights under any such material agreement, mortgage, lease, judgment, order, award, decree or other instrument or restriction the right to terminate, modify or otherwise change the rights or obligations of PS Medical or the Shareholders thereunder.

3.8) Financial Statements. PS Medical has previously furnished Medtronic as **Schedule 3.8A** a true and complete copy of (i) PS Medical's audited financial statements for the year ended December 31, 1994 together with notes thereto (the "Audited Financial Statements"; the balance sheet included therein referred to as the "Audited Balance Sheet"), and (ii) PS Medical's unaudited financial statements for the seven-month period ended July 31, 1995 (the "Interim Financial Statements"; the balance sheet included therein referred to as the "Interim Balance Sheet") (the Audited Financial Statements and the Interim Financial Statements together referred to as the "Schedule 3.8A Financial Statements"). All such financial statements fairly and accurately present in all material respects the financial position of PS Medical as of their respective dates and the results of operations for the applicable periods ended on such dates. The statements of earnings included within the Schedule 3.8A Financial Statements do not contain any items of special or nonrecurring income or any other income not earned in the ordinary course of business except as expressly specified therein. The Schedule 3.8A Financial Statements have been prepared in accordance with generally accepted accounting principles, consistent with the prior year-end except as stated in the notes included therein and except for, with respect to the Interim Financial Statements, the requirement of footnotes thereto. The books of account of PS Medical accurately reflect PS Medical's items of income and expense and all assets and liabilities and accruals which properly should have been reflected therein in accordance with generally accepted accounting principles consistently applied throughout the periods covered thereby except as disclosed in the Schedule 3.8A Financial Statements. Prior to the date of this Agreement, PS Medical has made available to Medtronic for review and copying all working papers of independent auditors related to any work done for PS Medical.

3.9) Taxes. PS Medical has timely filed all tax or assessment reports and tax returns (including any applicable information returns) that may be required by any law or regulation of any jurisdiction to be filed, and all such reports and returns are true, correct and complete in all material respects and listed in **Schedule 3.1L**. PS Medical has duly paid, deposited or accrued on its books of account, all Taxes pursuant to such reports and returns, or assessed against PS Medical, or which PS Medical is obligated to withhold from amounts owing to any employee. To its knowledge, PS Medical has no liability for any Taxes in excess of the amounts stated in the Audited Balance Sheet and the Interim Balance Sheet with respect to all time periods or portions thereof ending on or before the dates thereof. To PS Medical's knowledge, neither the assessment of any additional Taxes that by law should have been reported or paid or in accordance with generally accepted accounting

principles should have been accrued, nor any investigation or audit, is pending, threatened or expected. No taxing or assessment authority has indicated to PS Medical any intent to conduct an audit or other investigation or asserted any unresolved deficiencies with respect to Tax liabilities of PS Medical for any period and to PS Medical's knowledge there are no facts or circumstances which would give rise thereto. PS Medical has not waived any statute of limitations in respect of foreign, federal, state or local Taxes or agreed to any extension of time with respect to an assessment of deficiency with respect to such Taxes.

3.10) Absence of Undisclosed Liabilities. To PS Medical's knowledge, there are no debts, liabilities, or claims against PS Medical, or legal basis therefor, whether accrued, absolute, contingent, or otherwise, and whether due or to become due, including, but not limited to, liabilities on account of taxes, other governmental charges, duties, penalties, interest or fines, except:

- (a) Liabilities, to the extent set forth or reserved against in the Interim Balance Sheet;
- (b) Liabilities incurred in the ordinary course of business (and in compliance with this Agreement) since the date of the Interim Balance Sheet; or
- (c) Liabilities disclosed in **Schedule 3.10** or specifically disclosed in any other schedule.

3.11) Absence of Certain Changes and Events. Except as set forth in **Schedule 3.11**, since the date of the Audited Balance Sheet:

- (a) There has not been any material adverse change in the management, net worth or condition (financial or otherwise) of the businesses or assets of PS Medical, whether or not covered by insurance, or to PS Medical's knowledge in its relationships with any material suppliers of PS Medical; PS Medical has conducted its business only in the ordinary course.
- (b) PS Medical has not (i) sold or otherwise disposed of any of its real property or real property leases, or entered into any renewals or extensions of such existing leases or entered into any new leases; (ii) made any increase in the compensation or benefits payable or to become payable by PS Medical to any officers, employees or consultants whose total remuneration for the last fiscal year was, or for the current fiscal year is expected to be after any such increase, more than \$50,000, or paid or accrued any bonus, percentage of compensation, severance benefit or other like benefit to, or for the credit of, any officer, employee or consultant, except in accordance with such plans and arrangements as were in effect prior to the date of the Audited Balance Sheet or are set forth in **Schedule 3.11**; (iii) entered into, amended, terminated or received notice of termination of any material contract, license, franchise, commitment or other arrangement other than in the ordinary course of

business; (iv) altered or revised its accounting principles, procedures, methods or practices except as required by law; (v) removed or permitted to be removed from any building, facility or real property of PS Medical any item of machinery, equipment, fixture, vehicle, or other personal property or parts thereof, except in the ordinary course of business, (vi) changed its credit policy as to sales of inventories, discounts, product returns, warranties or collection of receivables; (vii) transferred or otherwise disposed of any assets except inventory in the ordinary course of business; (viii) incurred, discharged or satisfied any material liability (absolute or contingent), mortgage, lien, security interest or encumbrance other than in the ordinary course of business; (ix) declared or paid any dividend or other distribution in cash or securities, or redeemed, repurchased or otherwise acquired any capital stock of PS Medical; (x) issued or committed to issue any securities of, or other ownership interests in, PS Medical, except pursuant to exercise of PS Medical Options; (xi) made any purchase commitment in excess of the normal, ordinary and usual requirements of its business, or made any change in its selling, pricing, advertising or personnel practices inconsistent with its prior practice; (xii) written off or down the value of any inventory or other assets as unusable, obsolete or below standard quality in excess of stated reserves on the Audited Balance Sheet; (xiii) written off or down as uncollectible any notes or accounts receivable or portion thereof except in amounts which in the aggregate are not in excess of preexisting reserves therefor, or taken, set aside or increased any reserves or charges on its books against earnings or assets or reversed any reserves; (xiv) failed to replenish its inventory in a normal and customary manner consistent with its prior practice and prudent business practices prevailing in PS Medical's industry; (xv) entered into any settlement regarding the breach or infringement of any United States or foreign license, patent, trademark, tradename, invention or similar rights; (xvi) entered into any compromise or settlement of or suffered any judgment in any litigation, proceeding, or governmental investigation relating to it or its assets, properties, rights or business; (xvii) suffered any damage, destruction or loss whether or not covered by insurance which might materially adversely affect the property, business or operations of PS Medical as a whole; (xviii) had any material adverse change in its relations with its employees, agents, customers or suppliers; (xix) made any loans to any shareholders, directors, officers, employees or consultants of PS Medical; (xx) repaid any loans or other advances from shareholders or Affiliates of PS Medical, or repaid any indebtedness of PS Medical for which any shareholder was a guarantor or was otherwise directly or indirectly liable; (xxi) changed or modified the terms or amounts of its insurance coverages; (xxii) entered into any advertising contract or commitment; (xxiii) received any communication from any customer which accounted for more than 2% of its revenues during the last full fiscal year to the effect that such customer does not intend to continue to purchase merchandise from it; (xxiv) made any capital expenditures or commitment therefor in excess of \$20,000; or (xxv) entered into any written or oral agreement, other than this Agreement, to do any of the things enumerated in (i) through (xxiv) of this Section 3.11.

3.12) Assets. The fixtures, equipment, facilities and operating assets of PS Medical are suitable for the uses for which intended, free from defects and in good operating condition (ordinary wear and tear excepted) in all material respects. All such assets are being and have been properly and regularly serviced and maintained by PS Medical in a manner that would not void or limit the coverage of any warranty thereon. All improvements and modifications of such facilities by PS Medical, PS Medical's uses of such facilities and all such facilities and their uses conform in all material respects to all applicable zoning and building laws. PS Medical has good, marketable and insurable title to, or, in the case of leases, valid and subsisting leasehold interests in, all assets used in the operations (as presently conducted) of PS Medical, free and clear of any Liens except Liens for current taxes or assessments not yet due and payable.

3.13) Trademarks, Patents and Trade Secrets. Except as set forth in **Schedule 3.13**, all right, title and interest in and to all Intellectual Property which is necessary to or used in PS Medical's operations as presently conducted or proposed to be conducted or in the production of any of PS Medical's products (the "PS Medical Intellectual Property") are, to PS Medical's knowledge, owned by or licensed exclusively to, without royalties, fees or commissions, PS Medical, free and clear of any Liens. To PS Medical's knowledge, neither PS Medical, its business nor any of its products infringes, misuses, or conflicts with the rights, including Intellectual Property rights, of others. To PS Medical's knowledge, no present or former employee or consultant of PS Medical has violated any noncompetition, confidentiality, or assignment of inventions covenant or obligation by reason of such employee's or consultant's employment with or consulting to PS Medical. None of the Intellectual Property used by PS Medical was misappropriated. To PS Medical's knowledge, no present or former employee or consultant of PS Medical has, by actions taken while an employee or consultant of PS Medical, violated any covenant or obligation not to solicit the employees of any other person or entity. To PS Medical's knowledge, the PS Medical Intellectual Property is valid and has not been challenged in any judicial or administrative proceeding. Neither the Shareholders nor any employee or consultant of PS Medical has any rights as an individual in or to any of the PS Medical Intellectual Property. All PS Medical Intellectual Property listed in **Schedule 3.1C** has the status indicated therein and all applications are still pending in good standing and have not been abandoned. PS Medical has taken all necessary steps and appropriate actions to record its interests, and protect its rights, in the PS Medical Intellectual Property. To PS Medical's knowledge, no person or entity nor such person's or entity's business nor any of its products has infringed, misused, misappropriated or conflicted with the Intellectual Property rights of PS Medical or currently is infringing, misusing, misappropriating or conflicting with such rights. To PS Medical's knowledge, except as set forth on **Schedule 3.13**, no employee or consultant of PS Medical is subject to or otherwise restricted by any employment, nondisclosure, assignment of inventions, nonsolicitation of employees or noncompetition agreement between such employee or consultant and a third party. All employees and consultants of PS Medical have signed an agreement in the form of Exhibit C, and each such agreement is, and after the Closing shall remain, the legal, binding and enforceable obligation of such employee or consultant.

3.14) Accounts Receivable. To PS Medical's knowledge, all accounts and notes receivable shown on the Interim Balance Sheet and all accounts and notes receivable created up to the Closing Date will be collected within 120 days after the Closing in the ordinary course of business (net of the allowance set forth or reflected in the Interim Balance Sheet for doubtful accounts). On the Closing Date such accounts and notes receivable, except to the extent already paid, will be valid and collectible obligations owing to PS Medical, not subject to any defenses or set-offs. All notes and accounts receivable due to PS Medical from any director, officer or Shareholder shall be paid in full at or prior to the Closing.

3.15) Inventories. Except as set forth in **Schedule 3.15**, to PS Medical's knowledge, all Inventories of PS Medical consist of items of merchantable quality and quantity usable or salable in the ordinary course of PS Medical's business, and are salable at prevailing market prices not less than the book value amounts thereof. To PS Medical's knowledge, all Inventories of PS Medical conform to the specifications established therefor and have been manufactured in accordance with FDA Good Manufacturing Practices and all other applicable regulatory requirements. Except as set forth in **Schedule 3.15**, to PS Medical's knowledge, the quantities of all Inventories (net of allowance for obsolete or excess inventory consistent with past practice) are not obsolete, damaged, slow moving, defective or excessive, and are reasonable in the circumstances of PS Medical's business. **Schedule 3.1A** sets forth a complete list of the addresses of all warehouses or other facilities owned or leased by PS Medical and in which inventories are located.

3.16) Licenses; Compliance with Laws, Regulations, Etc. PS Medical possesses all necessary FDA approvals and similar state or foreign agency approvals, and all material permits, licenses and other approvals and authorizations which are necessary for the conduct of its business as presently conducted, and all of such licenses, permits and other approvals and authorizations are in good standing, full force and effect. All such licenses, permits, approvals or authorizations will continue to be in full force and effect immediately after the transactions contemplated herein and not be affected by the transactions contemplated herein. PS Medical and its actions, properties, products, practices and procedures, and any agreements to which PS Medical is a party or is bound, have complied, and are in compliance, in all material respects with all applicable laws (including common law), statutes, ordinances, orders, decrees, rules, regulations, interpretations and requirements promulgated by governmental or other authorities. No statute, rule, regulation, order or interpretation has been enacted, entered or deemed applicable by any domestic or foreign government or governmental or administrative agency or court which would make consummation by PS Medical and the Shareholders of the transactions contemplated by this Agreement illegal.

3.17) Litigation. Except as set forth in **Schedule 3.17**, there is no action, lawsuit, claim, proceeding, or investigation of any kind pending or, to PS Medical's knowledge, threatened against, by or affecting PS Medical which if decided adversely against PS Medical would have a material adverse effect upon the business and operations of PS Medical. PS Medical is not in default with respect to any order, writ, injunction, or decree of any court

or of any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, affecting or relating to its business or assets. No suit, action or other proceeding is pending or, to PS Medical's knowledge, threatened by or before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated hereby, and no investigation that might eventuate in any such suit, action or other proceeding is pending or overtly threatened to PS Medical's knowledge.

3.18) Warranties, Leases, Contracts. All products manufactured or sold, and all services provided, by PS Medical have complied, and are in compliance, in all material respects with all contractual requirements, warranties or covenants, express or to PS Medical's knowledge implied, applicable thereto, and with all applicable governmental, trade association or regulatory specifications therefor or applicable thereto. The terms of PS Medical's product and service warranties and product return, discount, demo sales and credit policies are set forth in **Schedule 3.18**. PS Medical has performed all material obligations required to be performed by it and is not in default under any lease, contract, mortgage, promissory note, evidence of indebtedness or other agreement or commitment to which PS Medical is a party or by which PS Medical is bound, and the same are in full force and effect on the date hereof and valid and enforceable by PS Medical in accordance with their respective terms except as may be limited by laws affecting creditors' rights generally or by judicial limitations on the right to specific performance or other equitable remedies; there has not been any event of default (or any event or condition which with notice or the lapse of time, both or otherwise, would constitute an event of default) on the part of PS Medical or any party to any thereof; and performance of any such lease, contract, mortgage, promissory note, evidence of indebtedness or other agreement will not have a material adverse effect on the business or operations of PS Medical.

3.19) Insurance Policies. All policies of insurance listed in **Schedule 3.1H** are in full force and effect, have been issued for the benefit of PS Medical by properly licensed reputable insurance carriers, are to PS Medical's knowledge adequate, and are customary for the assets, business and operations of PS Medical. PS Medical has promptly and properly notified its insurance carriers of any and all claims known to it with respect to its operations or products for which it is insured. PS Medical has maintained products liability insurance on an uninterrupted basis of at least \$1,000,000 (with a self-insured retention of \$25,000 per occurrence and \$125,000 aggregate) since November 15, 1992.

3.20) Labor Agreements. PS Medical is not a party to any collective bargaining agreement with any labor organization or to any other agreement or understanding containing any severance pay liabilities or obligations. PS Medical has not committed any unfair labor practice. There is not currently pending or threatened a demand for recognition from any labor union with respect to, and PS Medical has no knowledge of any attempt that has been made or is being made to organize, any of the persons employed by PS Medical. There has never been and is not now any strike, slow-down, work stoppage or lockout, or any threat

thereof, by or with respect to any of the employees of PS Medical. To PS Medical's knowledge, there has never been and is not now any strike, slow-down, work stoppage or lockout, or any threat thereof, by or with respect to any supplier of PS Medical which has had, or could reasonably be expected to have, a materially adverse effect upon PS Medical's business.

3.21) Benefit Plans.

(a) Except as set forth in **Schedule 3.1J**, PS Medical does not sponsor, maintain, contribute to, and, within the six-year period ending on the date hereof, has not sponsored, maintained or contributed to or been required to contribute to, any "employee pension benefit plan" ("Pension Plan"), as such term is defined in Section 3(2) of ERISA, including, solely for the purpose of this subsection, a plan excluded from coverage by Section 4(b)(5) of ERISA. Each such Pension Plan presently maintained by PS Medical is, in all material respects, in compliance with applicable provisions of ERISA, the Code and other applicable law.

(b) PS Medical does not sponsor, maintain, contribute to, and, within the six-year period ending on the date hereof, has not sponsored, maintained or contributed to or been required to contribute to, any Pension Plan that is a "Multiemployer Plan" within the meaning of Section 4001(a)(3) of ERISA.

(c) Except as set forth in **Schedule 3.1J**, PS Medical does not sponsor, maintain, contribute to, and, within the six-year period ending on the date hereof, has not sponsored, maintained, contributed to, or been required to contribute to, any "employee welfare benefit plan" ("Welfare Plan"), as such term is defined in Section 3(1) of ERISA, whether insured or otherwise, and any such Welfare Plan presently maintained by PS Medical is, in all material respects, in compliance with the provisions of ERISA, the Code and all other applicable laws, including, but not limited to, Section 4980B of the Code, the regulations thereunder and Part 6 of Title I of ERISA. Except as set forth in **Schedule 3.1J**, PS Medical has not established or contributed to any "voluntary employees' beneficiary association" within the meaning of Section 501(c)(9) of the Code.

(d) PS Medical does not sponsor, maintain or contribute to, and, within the six-year period ending on the date hereof, has not sponsored, maintained or contributed to, a "self-insured medical reimbursement plan" within the meaning of Section 105(h) of the Code and the regulations thereunder.

(e) Except as set forth in **Schedule 3.1J**, PS Medical does not currently maintain or contribute to any oral or written bonus, profit-sharing, compensation (incentive or otherwise), commission, stock option or other stock-based compensation, retirement, severance, vacation, sick or parental leave, dependent care, deferred

compensation, cafeteria, disability, hospitalization, medical, death, retiree, insurance or other benefit or welfare or other similar plan, agreement, trust, fund or arrangement providing for the remuneration or benefit of all or any employees or shareholders, that is neither a Pension Plan nor a Welfare Plan (collectively, the "Compensation Plans").

(f) To the knowledge of PS Medical, neither any Pension Plans or Welfare Plans nor any trust created or insurance contract issued thereunder nor any trustee, fiduciary, custodian, or administrator thereof, nor any officer, director or employee of PS Medical, custodian or any other "disqualified person" within the meaning of Section 4975(e)(2) of the Code, or "party in interest" within the meaning of Section 3(14) of ERISA, with respect to any such plan has engaged in any act or omission which could reasonably be expected to subject PS Medical, either directly or indirectly, to a tax or penalty on prohibited transactions imposed by Sections 4975 of the Code or 406 of ERISA, a liability for breach of fiduciary duties under ERISA or a civil penalty imposed by Section 502 of ERISA.

(g) Full payment has been made of all amounts that PS Medical is required, under applicable law, with respect to any Pension Plan, Welfare Plan or Compensation Plan, or any agreement relating to any Pension Plan, Welfare Plan or Compensation Plan, to have paid as a contribution to each Pension Plan, Welfare Plan or Compensation Plan. To the extent required by generally accepted accounting principles, PS Medical has made adequate provisions for reserves to meet contributions that have not been made because they are not yet due under the terms of any Pension Plan, Welfare Plan or Compensation Plan or related agreements. There will be no change on or before the Closing Date in the operation of any Pension Plan, Welfare Plan or Compensation Plan or documents under which any such plan is maintained that will result in an increase in the benefit liabilities under such plan, except as may be required by law. The IRS has issued favorable determination letters, or applications for favorable determination letters have been timely submitted and no unfavorable determination letters have been received, with respect to all PS Medical Pension Plans that are intended to be qualified under Section 401(a) of the Code.

(h) **Schedule 3.1J** lists all Pension Plans, Welfare Plans and Compensation Plans, and PS Medical has made available to Medtronic complete and accurate copies of all of such Pension Plans, Welfare Plans, Compensation Plans and related agreements, annual reports (Form 5500), favorable determination letters, current summary plan descriptions, and all employee handbooks or manuals.

3.22) Employees.

(a) Except as set forth in **Schedule 3.22** or in the Interim Balance Sheet, PS Medical has no obligations and the transactions contemplated hereby shall give rise to

no obligations to its directors, officers, employees, consultants, or agents other than obligations arising in the ordinary course of business since the date of the Audited Balance Sheet on account of wages, salaries and commissions for prior services performed or business produced.

(b) Except as set forth in **Schedule 3.22**, there have been no lawsuits or claims brought by any employee or consultant or former employee or consultant of PS Medical against PS Medical.

(c) Except as set forth in **Schedule 3.22**:

(i) Proper and accurate amounts have been withheld by PS Medical from the compensation of all of its employees for all periods in full and complete compliance with the tax withholding provisions of any applicable laws;

(ii) Proper and accurate returns have been filed by PS Medical for all periods for which returns were due with respect to employee income tax and social security withholding and FICA and unemployment taxes, and the amounts shown on such returns to be due and payable have been paid in full or adequate provisions for payment of such amounts have been included in the Interim Financial Statements;

(iii) Hours worked by, and payments made to, employees of PS Medical have not been in violation of the Fair Labor Standards Act or any applicable laws dealing with such matters;

(iv) All payments due from PS Medical on account of employee health, welfare and workers compensation insurance have been accrued as a liability in the Interim Financial Statements; and

(v) There are no severance or early retirement payments which are or were due from PS Medical under the terms of any agreement, oral or written.

3.23) No Finders. Except for the fees of Piper Jaffray which shall be paid by the Shareholders, no act of PS Medical or the Shareholders has given or will give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment in connection with the transactions contemplated herein.

3.24) Contracts with Related Parties. Except as set forth in Schedules 3.11, 3.22 or 3.24, to the best of PS Medical's knowledge, there are no agreements or contracts between PS Medical and any of its officers, directors, shareholders or any entity in which any officer, director or shareholder owns a more than five percent (5%) equity interest.

3.25) Relations with Suppliers and Customers. No material current supplier of PS Medical has cancelled any contract or order for provision of, and, to the knowledge of PS Medical, there has been no threat by any such supplier not to provide, raw materials, products, supplies, or services to the businesses of PS Medical either prior to or following the Merger. Except as set forth in **Schedule 3.25**, PS Medical has not, to the knowledge of PS Medical, received any information from any customer that accounted for more than 2% of the revenues of PS Medical during the last full fiscal year to the effect that such customer intends to materially decrease the amount of business it does with the businesses of PS Medical either prior to or following the Merger. **Schedule 3.25** lists all suppliers to PS Medical that are the sole source of a particular raw material, product, supply, or service which is or is expected to be material to the business of PS Medical.

3.26) Product Liability Claims. To PS Medical's knowledge, all products which PS Medical has in inventory or has sold have been and are merchantable, free from material defects in material or workmanship, and suitable for the purpose for which they are sold. Except as specifically set forth in **Schedule 3.26**, PS Medical has never incurred any uninsured or insured Product Liability. Except as specifically set forth in **Schedule 3.26**, PS Medical has never received a claim based upon alleged Product Liability, and to PS Medical's knowledge no basis for any such claim exists. To its knowledge, PS Medical has no liability or obligation with respect to any Product Liability, whether or not heretofore asserted, or product recalls related to products manufactured or sold prior the Closing.

3.27) Environmental Matters. Except as set forth on Schedule 3.27: PS Medical has obtained, and is in compliance with, all permits, licenses or other approvals necessary under the Environmental Laws or Regulations with respect to PS Medical's business or assets, and is in compliance with all Environmental Laws or Regulations, except for those permits, licenses or other approvals the absence of which, and except for Environmental Laws or Regulations the noncompliance with which, would not have a material adverse effect on PS Medical's business or assets. PS Medical's business and assets comply fully with all Environmental Laws or Regulations except those Environmental Laws or Regulations the noncompliance with which would not have a material adverse effect on PS Medical's business or assets. No Hazardous Substances have been used, stored, manufactured, generated, transported, released or disposed of in connection with or as a result of PS Medical's business or assets. To PS Medical's knowledge, neither PS Medical nor its business or assets have been or are subject to, any actual or threatened investigations, administrative proceedings, litigation, regulatory hearings, or other action threatened, proposed or pending that alleges (i) actual or threatened violation of or noncompliance with any Environmental Law or Regulation; or (ii) actual or threatened personal injury or property damage or contamination of any kind resulting from a release or threatened release of a Hazardous Substance with respect to PS Medical's business and assets. PS Medical has not taken any action or failed to take any action with respect to its business, assets or the real property presently or formerly used in connection therewith that might result in (i) actual or to PS Medical's knowledge threatened violation of or noncompliance with any Environmental Law or Regulation; or (ii) actual or threatened personal injury or property damage or

contamination of any kind resulting from a release or threatened release of a Hazardous Substance with respect to PS Medical's business and assets except for any such action or failure to take such action which would not have a material adverse effect on PS Medical's business or assets. PS Medical has delivered to Medtronic true and complete copies of all (if any) reports, studies or tests in the possession of or initiated by PS Medical that pertain to Hazardous Substances or other environmental concerns regarding PS Medical's business, assets or any real property used by PS Medical in connection with its business or assets. With respect to the real property presently or formerly used in connection with PS Medical's business and assets, (i) no above-ground or underground storage tanks are or to PS Medical's knowledge were present on such real property or any improvements on structures thereon; and (ii) to PS Medical's knowledge, there has been no past or present use, manufacture, generation, storage, transportation or disposal of any Hazardous Substance by any person at or under such real property except in compliance with all Environmental Laws or Regulations (excluding those Environmental Laws or Regulations the noncompliance with which would not have a material adverse effect on PS Medical's business or assets). To PS Medical's knowledge, there is no Contamination of any former or current real property owned or leased by PS Medical.

3.28) Business and Marketing Plans. PS Medical has made available to Medtronic and will continue to make available to Medtronic before and after the date of this Agreement, all material methods, plans or marketing programs employed by PS Medical in connection with its business which Medtronic may reasonably request.

3.29) Absence of Certain Business Practices. To PS Medical's knowledge, neither PS Medical nor any officer, employee or agent of PS Medical, nor any other person acting on its behalf, has directly or indirectly, since the date of PS Medical's incorporation given or agreed to give any gift or similar benefit to any customer, supplier, governmental employee or other person who is or may be in a position to help or hinder the business of PS Medical (or assist PS Medical in connection with any actual or proposed transaction) which (i) might subject PS Medical to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) if not given in the past, might have had an adverse effect on the assets, business or operations of PS Medical as reflected in the Schedule 3.8A Financial Statements, or (iii) if not continued in the future, might adversely affect PS Medical's assets, business, operations or prospects or which might subject PS Medical to suit or penalty in any private or governmental litigation or proceeding.

3.30) Corporate Records. The minute books of PS Medical are complete and correctly reflect in all material respects, all corporate actions taken by it at all meetings or through written action and correctly record all resolutions of PS Medical.

3.31) U.S. Real Property Interest. No tax is required to be withheld or paid pursuant to Section 1445 of the Code as a result of the transactions contemplated by this Agreement.

3.32) Disclosure. Without limitation of the representations and warranties contained in this Article III, no representation or warranty by PS Medical or the Shareholders in this Agreement, and no information disclosed in the Schedules supplied by PS Medical or the Shareholders, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF MEDTRONIC

Medtronic represents and warrants to PS Medical and the Shareholders as of the date hereof as follows and acknowledges that the same shall be true and correct as of the Closing Date (as if made at the Closing), shall be deemed to have been relied upon by the Shareholders and shall survive the Closing of this transaction as provided in Section 13.3 of this Agreement:

4.1) Organization. Medtronic is a corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota. Acquisition Subsidiary is a corporation duly organized, validly existing and in good standing under the laws of the State of California.

4.2) Authorization and Binding Obligation. The execution, delivery and performance by each of Medtronic and Acquisition Subsidiary of this Agreement and the transactions contemplated hereby has been duly and validly authorized and approved, by all requisite corporate action on the part of Medtronic and Acquisition Subsidiary. Each of Medtronic and Acquisition Subsidiary has all requisite power and authority to do and perform all acts and things required to be done by it under this Agreement and the agreements contemplated hereby. This Agreement constitutes the valid and binding obligation of each of Medtronic and Acquisition Subsidiary enforceable in accordance with their terms except as may be limited by laws affecting creditors' rights generally or by judicial limitations on the right to specific performance.

4.3) Consents Required. Except for (i) any applicable requirements of the Securities Act, the Exchange Act, state securities laws, and the HSR Act; (ii) the filing and recordation of appropriate merger documents as required by the CGCL; and (iii) any items set forth in **Schedule 4.3**, the execution and delivery of this Agreement, the issuance of the Merger Shares and the consummation of the transactions contemplated hereby in compliance with the terms and provisions hereof, by Medtronic and Acquisition Subsidiary, will not:

- (a) Conflict with or result in a breach of the terms, conditions or provisions of or constitute a default under the Articles of Incorporation or Bylaws or other governing instruments of Medtronic or Acquisition Subsidiary, or any material instrument, agreement, mortgage, lease, judgment, order, award, decree or other instrument or

restriction to which Medtronic or Acquisition Subsidiary is a party or by which Medtronic or Acquisition Subsidiary or any of its or their assets is bound or affected;

(b) Violate any statute, rule, regulation, order or decree of any federal, state, local or foreign body or authority (including, but not limited to, the FDA or any nongovernmental self-regulatory agency) by which Medtronic or Acquisition Subsidiary or any of their respective properties or assets may be bound.

(c) Require any affirmative approval, consent, authorization or other order or action of any court, governmental authority, regulatory body, creditor or any other person; or

(d) Give any party with rights under any such material instrument, agreement, mortgage, lease, judgment, order, award, decree or other instrument or restriction the right to terminate, modify or otherwise change the rights or obligations of Medtronic or Acquisition Subsidiary thereunder.

4.4) Capitalization. As of September 14, 1995, the authorized capital stock of Medtronic consisted of (a) 800,000,000 shares of Common Stock with a par value of \$.10 per share, of which there were 231,186,734 shares issued and outstanding (reflecting a 2-for-1 stock split payable to holders of record as of September 14, 1995), and (b) 2,500,000 shares of Preferred Stock with a par value of \$1.00 per share, of which there were no shares issued and outstanding. The authorized capital stock of Acquisition Subsidiary consists of 2,500 shares of Acquisition Subsidiary Common Stock, 100 shares of which are issued and outstanding and owned by Medtronic. All issued and outstanding shares of Medtronic Common Stock and Acquisition Subsidiary Common Stock are, and the shares of Medtronic Common Stock to be issued and delivered in the Merger pursuant to Article II hereof, subject to the terms of the Escrow Agreement, shall be, at the time of issuance and delivery, validly issued, fully paid, nonassessable and free of preemptive rights. The shares of Medtronic Common Stock to be issued and delivered in the Merger pursuant to Article II hereof shall be duly listed for trading on the NYSE, subject to official notice of issuance. Except as disclosed in Medtronic's filings with the SEC and except for (a) options to purchase shares of Medtronic Common Stock or shares of Medtronic Common Stock heretofore or hereafter granted or issued pursuant to the 1990 Employees Stock Purchase Plan, the 1994 Stock Award Plan, the 1991 Restricted Stock Plan for Non-Employee Directors, the 1979 Nonqualified Stock Option Plan and the 1979 Restricted Stock and Performance Share Award Plan, (b) rights issued under the Medtronic Rights Plan, and (c) Medtronic's Employee Stock Ownership Plan, there are not as of the date of this Agreement any outstanding or authorized subscriptions, options, warrants, calls, rights, commitments, restrictions, arrangements or any other agreements of any character that, directly or indirectly, (i) obligate Medtronic to issue any shares of capital stock or any securities convertible into, or exercisable or exchangeable for, or evidencing the right to subscribe for, any shares of capital stock, (ii) call for or relate to the sale, pledge, transfer or other

disposition or encumbrance by Medtronic of any shares of its capital stock, or (iii) to the knowledge of Medtronic, relate to the voting or control of such capital stock.

4.5) No Finders. No act of Medtronic has given or will give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment in connection with the transactions contemplated herein.

4.6) Disclosure. Without limitation of the representations and warranties contained in this Article IV, none of Medtronic documents listed in Section 5.3 as of the respective dates thereof contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

ARTICLE V REGISTRATION OF MEDTRONIC SHARES

5.1) Knowledge of Reliance. The Shareholders acknowledge that Medtronic, in claiming exemption from applicable securities laws for the issuance of the Merger Shares, is relying upon the statements and representations made herein.

5.2) Investment Purpose in Acquiring the Merger Shares. Each of the Shareholders is acquiring the Merger Shares for his/her/its own account for investment purposes only and not with a view to their resale or distribution in violation of the Securities Act. Each of the Shareholders has the requisite investment intent to satisfy Section 4(2) of the Securities Act.

5.3) Information About Medtronic. Each of the Shareholders acknowledges receipt of business information about Medtronic, including Medtronic's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, and Annual Report to Shareholders. Each of the Shareholders further acknowledges that such Shareholder has had the opportunity to discuss the business and affairs of Medtronic with an officer of Medtronic and has received such information concerning Medtronic as such Shareholder considers necessary or advisable in order to form a decision concerning acquisition of the Merger Shares.

5.4) Restriction on Transfer; Compliance with Securities Act . Each of the Shareholders understands that the Merger Shares are not freely transferable and that such Shareholder may in fact be prohibited from selling the Merger Shares for an extended period of time. If any Shareholder sells or distributes the Merger Shares in the future, it shall sell or distribute them pursuant to the requirements of the Securities Act and other applicable securities laws. The Shareholders will not transfer any part of the Merger Shares without (i) effective registration under the Securities Act and other applicable securities laws, (ii) obtaining an opinion of counsel satisfactory in form and substance to counsel for Medtronic stating that the proposed transaction, if effected without such registration, will not result in a violation of the Securities Act and other applicable securities laws, or (iii) providing Medtronic with such seller's and broker's affidavits or representations as reasonably required

to enable Medtronic's counsel to opine that such sale is exempt under Rule 144 of the Securities Act and under other applicable securities laws.

5.5) Restrictive Legend. Medtronic may place a restrictive legend on all certificates representing Merger Shares containing substantially the following language:

"The Shares represented by this certificate have not been registered under either the Securities Act of 1933, as amended, or applicable Blue Sky laws and may not be sold, pledged, or otherwise transferred except in compliance with such securities laws."

Medtronic may place a stop transfer order with its registrar and stock transfer agent covering all certificates representing Merger Shares.

5.6) Registration Statement.

(a) As soon as reasonably practicable after the Effective Time, Medtronic shall prepare and file with the SEC a registration statement on Form S-3 (or other applicable Form) covering the Shareholders' sale of all then issued and outstanding Registrable Shares which the Shareholders elect to have included in such registration statement. Medtronic shall use all reasonable efforts to cause such registration statement to become and remain effective until the earlier of three years after the Effective Time, or the date such Registrable Shares included therein cease to be Registrable Securities.

(b) In addition, as soon as reasonably practicable after each of (i) distribution of the Escrow Shares, (ii) receipt of the CE Mark Approval, and (iii) receipt of the PMA Approval, Medtronic shall prepare and file with the SEC a registration statement on Form S-3 (or other applicable Form) covering the Shareholders' sale of such Registrable Shares and use all reasonable efforts to cause such registration statement to become and remain effective until the earlier of three years after the Effective Time or the date such Registrable Securities included therein cease to be Registrable Securities.

(c) With respect to each registration statement filed by Medtronic pursuant to this Section, Medtronic shall:

(i) use all reasonable efforts to cause that registration statement to become and remain effective for the period(s) specified above;

(ii) as expeditiously as possible prepare and file with the SEC any amendments and supplements to the registration statement and the prospectus included in the registration statement as may be necessary to keep the registration statement effective for the period(s) specified above;

(iii) as expeditiously as possible furnish to each holder of Registrable Shares who is selling shares pursuant to such registration (a "Selling Holder") such reasonable numbers of copies of the prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as the Selling Holder may reasonably request in order to facilitate the public sale or other disposition of the Registrable Shares owned by the Selling Holder;

(iv) as expeditiously as possible use all reasonable efforts to register or qualify the Registrable Shares covered by the Registration Statement under the securities or Blue Sky laws of such states as the Selling Holders shall reasonably request, and do any and all other acts and things that may be necessary or desirable to enable the Selling Holders to consummate the public sale or other disposition in such states of the Registrable Shares owned by the Selling Holder; provided, however, that Medtronic shall not be required in connection with this paragraph (iv) to qualify as a foreign corporation or execute a general consent to service of process in any jurisdiction; and

(v) if Medtronic has delivered preliminary or final prospectuses to the Selling Holders and after having done so the prospectus is amended to comply with the requirements of the Securities Act, promptly notify the Selling Holders and, if requested, the Selling Holders shall immediately cease making offers of Registrable Shares and return all prospectuses to Medtronic. Medtronic shall promptly provide the Selling Holder with revised prospectuses and, following receipt of the revised prospectuses, the Selling Holders shall be free to resume making offers of the Registrable Shares.

(d) Notwithstanding the foregoing, if at the time such registration statement is to be filed, Medtronic reasonably believes that there are pending potential material developments or activities which would be required to be disclosed in such registration statement the disclosure of which, in the good faith determination of Medtronic may materially adversely affect Medtronic, then Medtronic may delay the filing of such registration statement subject to the limitation set forth in the penultimate sentence of this Subsection (d). Furthermore, if an amendment to an effective registration statement is required by virtue of the existence of an undisclosed material development or activity the disclosure of which, in the good faith determination of Medtronic may materially adversely affect Medtronic, then Medtronic shall notify the Selling Holders that such material development or activity exists (without disclosing the nature or specifics thereof) and the Selling Holders shall thereupon cease all sales of Registrable Shares subject to the limitation set forth in the last sentence of this Subsection (d). The aggregate number of days by which the filing of a registration statement is delayed or for which the Selling Holders are prevented from selling Registrable Shares pursuant to this subsection (d) shall not exceed a cumulative 90 days in any 18-month period. The Selling Holders shall hold in confidence all information provided to them pursuant to this paragraph and shall not use such information in violation of any applicable securities laws.

(e) On a one-time basis, Medtronic shall, if requested by the holders of at least ten percent (10%) of the Registrable Shares, enter into an underwriting agreement with an underwriter reasonably acceptable to Medtronic for the firm commitment offering of Registrable Securities, which agreement shall include reasonable and customary terms and provisions; provided, however, that no shareholders other than the Selling Holders shall be required to sign a standstill agreement in connection with the underwritten sale of securities;

5.7) Expenses. Medtronic will pay all of the registration expenses of the registration statements filed pursuant to this Article V including, without limitation, all registration and filing fees, exchange listing fees, printing expenses, fees and disbursements of counsel for Medtronic, state Blue Sky fees and expenses, the expense of any special audits incident to or required by any such registration. Medtronic shall also pay up to an aggregate of \$25,000 of legal fees of one counsel to the Selling Holders for the total of all registrations effected under this Article V. The Selling Holders shall pay all underwriting discounts, underwriter's expenses and selling commissions with respect to such Selling Holders' shares, and the fees and expenses of the Selling Holders' counsel in excess of an aggregate \$25,000.

5.8) Indemnification.

(a) With respect to the registration of any of the Registrable Shares under the Securities Act pursuant to this Agreement, Medtronic will indemnify and hold harmless the seller of such Registrable Shares, each underwriter of such Registrable Shares, and each other person, if any, who controls such seller or underwriter within the meaning of the Securities Act or the Exchange Act against any losses, claims, damages or liabilities, joint or several, to which such seller, underwriter or controlling person may become subject under the Securities Act, the Exchange Act, state securities or Blue Sky laws or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any registration statement under which such Registrable Shares were registered under the Securities Act, any preliminary prospectus or final prospectus contained in the registration statement, or any amendment or supplement to such Registration Statement, or arise out of or are based upon the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and Medtronic will reimburse such seller, underwriter and each such controlling person for any legal or any other expenses reasonably incurred by such seller, underwriter or controlling person in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that Medtronic will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon (i) any untrue statement or omission made in such registration statement, preliminary prospectus or prospectus, or any such amendment or supplement, in reliance upon and in conformity with information furnished to Medtronic, in writing, by or on behalf of such seller, underwriter or controlling person specifically for use in the preparation thereof, or (ii) sales during any period in which such Seller is obligated to cease selling Registrable Securities pursuant to Section 5.6.

(b) In the event of any registration of any of the Registrable Shares under the Securities Act pursuant to this Agreement, each seller of Registrable Shares, severally and not jointly, will indemnify and hold harmless Medtronic, each of its directors and officers and each underwriter (if any) and each person, if any, who controls Medtronic or any such underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages or liabilities, joint or several, to which Medtronic, such directors and officers, underwriter or controlling person may become subject under the Securities Act, Exchange Act, state securities or Blue Sky laws or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement under which such Registrable Shares were registered under the Securities Act, any preliminary prospectus or final prospectus contained in the registration statement, or any amendment or supplement to the Registration Statement, or arise out of or are based upon any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, if the statement or omission was made in reliance upon and in conformity with information furnished in writing to Medtronic by or on behalf of such seller, specifically for use in connection with the preparation of such Registration Statement, prospectus, amendment or supplement; or (ii) sales during any period in which such Seller is obligated to cease selling Registrable Securities pursuant to Section 5.6; provided, however, that the obligations of such seller of Registrable Shares hereunder shall be limited to an amount equal to the net proceeds to each seller of Registrable Shares from the sale of Registrable Shares as contemplated herein.

(c) Each party entitled to indemnification under this Section 5.8 (the "Indemnified Party") shall give notice to the party required to provide indemnification (the "Indemnifying Party") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom; provided that, counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld). The Indemnified Party may participate in such defense at such party's expense; provided, however, that the Indemnifying Party shall pay such expense if representation of such Indemnified Party by the counsel retained by the Indemnifying Party would be inappropriate due to actual or potential differing interests between the Indemnified Party and any other party represented by such counsel in such proceeding. No Indemnifying Party, in the defense of any such claim or litigation shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect of such claim or litigation, and no indemnified Party shall consent to entry of any judgment or settle such claim or litigation without the prior written consent of the Indemnifying Party.

5.9) Information by Holder. Each holder of Registrable Shares included in any registration shall furnish to Medtronic such information regarding such holder and the

distribution proposed by such holder as Medtronic may request in writing and as shall be required in connection with any registration, qualification or compliance referred to in this Agreement.

5.10) Rule 144 Requirements. So long as Medtronic has a class of securities registered under Section 12 of the Exchange Act, Medtronic agrees to:

- (a) make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act;
- (b) use all reasonable efforts to file with the SEC in a timely manner all reports and other documents required of Medtronic under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements); and
- (c) furnish to any holder of Registrable Shares upon request a written statement by Medtronic as to its compliance with the reporting requirements of said Rule 144, and of the Securities Act and the Exchange Act, a copy of the most recent annual or quarterly report of Medtronic, and such other reports and documents of Medtronic as such holder may reasonably request to avail itself of any similar rule or regulation of the SEC allowing it to sell any such securities without registration.

5.11) Transfer of Registration Rights. The registration rights and obligations of the Shareholders under this Article V may be transferred to transferees of Registrable Securities who receive such shares by gift, will, by the laws of intestate succession, or by operation of law, subject to Medtronic's right to place reasonable limitations on the number of such transfers if such transfers of Registrable Securities would impose a burden on Medtronic, and provided that Medtronic receives prompt written notice of such transfers.

ARTICLE VI COVENANTS

6.1) Approvals and Consents. PS Medical and the Shareholders will use all reasonable efforts to obtain all approvals and consents of all third parties necessary on the part of PS Medical or the Shareholders to consummate the transaction contemplated herein. In addition, the Shareholders will use their best efforts to obtain as soon as possible after the date hereof, at their cost and expense, if any, all approvals and consents of lessors of real property leased by PS Medical required by the terms of such lease to consummate the transaction contemplated herein; Medtronic will agree, if required by such lessor, to guarantee the performance of PS Medical under such lease from and after the Closing, and to provide a certificate to the lessor that no consideration is being paid for the assignment of the Lease. Medtronic agrees to cooperate with PS Medical and the Shareholders in connection with obtaining such approvals and consents. Medtronic will, at its cost and expense, obtain all approvals and consents of all third parties necessary on the part of Medtronic to

consummate the transactions contemplated herein. PS Medical and the Shareholders agree to cooperate with Medtronic in connection with obtaining such approvals and consents.

6.2) Preserve Accuracy of Representations and Warranties. PS Medical and the Shareholders shall refrain from taking any action, except with the prior written consent of Medtronic, which would render any representation, warranty or agreement of PS Medical and the Shareholders in this Agreement inaccurate or breached as of the Closing (as though made at and as of the Closing) in any material respect. At all times prior to the Closing, PS Medical and the Shareholders will promptly inform Medtronic in writing with respect to any matters hereafter arising which, if existing or occurring at the date of this Agreement, would have been required to be set forth or described in the Schedules pursuant to Article III.

6.3) Maintain PS Medical as Going Concern. Except as contemplated by this Agreement, during the period from the date of this Agreement to the Effective Time, PS Medical will conduct its operations according to its ordinary and usual course of business and consistent with past practice, and PS Medical will use all reasonable efforts, to the extent that it is within PS Medical's control, to preserve intact its respective business organizations, to maintain its prospects, to keep available the services of its respective officers and employees and to maintain satisfactory relationships with licensors, licensees, suppliers, contractors, distributors, customers and others having business relationships with it. PS Medical will promptly advise Medtronic orally and in writing of any materially adverse change in the business, prospects, properties, results of operations or condition (financial or otherwise) of PS Medical and permit Medtronic to consult with PS Medical with respect to any material changes in its business. Without limiting the generality of the foregoing, and except as otherwise expressly provided in or contemplated by this Agreement or to the extent specifically disclosed on the Schedules hereto, during the period from the date hereof to the Effective Time, PS Medical will not, without the prior written consent of Medtronic:

(a) amend its Certificate or Articles of Incorporation or Bylaws;

(b) authorize for issuance, issue, sell, or deliver (whether through the issuance or granting of additional options, warrants, commitments, subscriptions, rights to purchase or otherwise) any stock of any class or any securities convertible into shares of stock of any class (other than the issuance of the number of shares of PS Medical Common Stock (or part thereof) indicated in Section 3.3 hereof upon the exercise in accordance with the current terms of the stock options listed in Section 3.3 hereof as outstanding on the date of this Agreement);

(c) split, combine or reclassify any shares of its capital stock, declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its capital stock; or redeem or otherwise acquire any shares of its capital stock or other securities; or amend or alter any material term of any of its outstanding securities;

(d) create, incur or assume any indebtedness for borrowed money, or assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other person, other than in the ordinary course of business and consistent with past practice; or make any loans, advances or capital contributions to, or investments in, any other person; or create, incur or assume any Lien on any material asset;

(e) knowingly take any action that would have the effect of jeopardizing the qualification of the Merger as a reorganization within the meaning of Section 368(a)(2)(D) of the Code;

(f) (i) increase in any manner the compensation of any of its directors, officers, employees, shareholders or consultants, except in the ordinary course of business and consistent with past practice or pursuant to contractual obligations existing on the date hereof that have been fully disclosed to Medtronic, or accelerate the payment of any such compensation (whether or not any such acceleration is consistent with past practice); (ii) pay or accelerate or otherwise modify the payment, vesting, exercisability, or other feature or requirement of any pension, retirement allowance, severance pay, stock option or other employee benefit not required by any existing plan, agreement or arrangement or by applicable law to any such director, officer, employee, shareholder or consultant, whether past or present; or (iii) except in accordance with its customary past practices, commit itself to any additional pension, profit-sharing, bonus, incentive, deferred compensation, stock purchase, stock option, stock appreciation right, group insurance, severance pay, retirement or other employee benefit plan, agreement or arrangement, or to any employment or consulting agreement with or for the benefit of any person, or amend any of such plans or any of such agreements in existence on the date hereof;

(g) except in the ordinary course of business and consistent with past practice or pursuant to contractual obligations existing on the date hereof, (i) sell, transfer, mortgage, or otherwise dispose of or encumber any real or personal property, (ii) pay, discharge or satisfy claims, liabilities or obligations (absolute, accrued, contingent or otherwise), or (iii) cancel any debts or waive any claims or rights, which involve payments or commitments to make payments which individually exceeds \$10,000 or, in the aggregate, exceed \$50,000;

(h) change its credit policy as to sales of inventories or collection of receivables or its inventory consignment practices;

(i) remove or permit to be removed from any building, facility or real property any machinery, equipment, fixture, vehicle or other personal property or parts thereof, except in the ordinary course of business and except for movement from one facility of PS Medical to another such facility;

(j) alter or revise its accounting principles, procedures, methods or practices, except as may be required by generally accepted accounting principles;

(k) institute, settle or compromise any claim, action, suit or proceeding pending or threatened by or against it involving amounts in excess of \$50,000, at law or in equity or before any federal, state, local, foreign or other governmental department, commission, board, bureau, agency or instrumentality (including, but not limited to, the FDA or any nongovernmental self-regulatory agency); or

(l) agree, whether in writing or otherwise, to do any of the foregoing.

6.4) No Solicitation of Other Offers. Neither PS Medical nor any of the Shareholders shall solicit, entertain, discuss or consider any offer, inquiry or proposal with respect to the sale, merger or other acquisition or licensing of the business or assets (or any material portion or items thereof) of PS Medical or of any outstanding stock of PS Medical by any third party other than Medtronic. PS Medical will promptly communicate to Medtronic the terms of any proposal or inquiry that it has received or may receive in respect of any such transaction or of any such information requested from it or of any such negotiations or discussions being sought to be initiated with PS Medical.

6.5) Access to Information and Records Before Closing. During the period from the date hereof to the Effective Time, PS Medical shall afford to Medtronic, and to Medtronic's accountants, officers, directors, employees, counsel and other representatives, reasonable access during normal business hours, to all of its properties, books, contracts, commitments and records, and, during such period, PS Medical shall furnish promptly to Medtronic all information concerning PS Medical's business, prospects, properties, results of operations, condition (financial or otherwise) or personnel as Medtronic may reasonably request. During the period from the date hereof to the Effective Time, the parties shall in good faith meet and correspond on a regular basis for mutual consultation concerning the conduct of PS Medical's business and, in connection therewith, Medtronic shall be entitled to have employees or other representatives present at the offices of PS Medical and its Subsidiaries at all such times as reasonably deemed necessary by Medtronic to protect its interest as a prospective owner of PS Medical's business and to observe, and be kept informed concerning, PS Medical's operations and business planning. Medtronic shall hold in confidence all such nonpublic information in accordance with the Letter Agreement dated October 17, 1994, as amended, and that certain Mutual Confidentiality Agreement dated February 7, 1994 (the "Confidentiality Agreement").

6.6) Employee Agreements.

(a) PS Medical represents and warrants to Medtronic that all PS Medical employees have entered into, and all future employees prior to the Closing will enter into, an Employment Agreement in the form attached hereto as **Exhibit C**. PS Medical will, if requested by Medtronic, also cause such employees to acknowledge in writing that such

Employment Agreement shall remain in full force and effect after the Closing, that "Confidential Information" as defined in such agreements shall be deemed to include confidential information of Medtronic and Medtronic's other Affiliates, and that Medtronic shall be an intended third party beneficiary of such agreements.

(b) Prior to the Closing, PS Medical and the Shareholders shall cause PS Medical to enter into Noncompetition Agreements in the form attached hereto as **Exhibit D** with those shareholders listed on Schedule 6.6(b).

(c) Prior to the Closing, PS Medical and the Shareholders shall cause PS Medical to enter into Employment Agreements in the form attached hereto as **Exhibit E** with those employees listed on Schedule 6.6(c).

(d) Those Shareholders who are employees of PS Medical acknowledge and agree that nothing contained in the agreements referred to in subsections (a), (b), or (c) above shall modify their status as "at-will" employees or otherwise give any Shareholders any expectation of employment or continued employment with PS Medical, except for those Shareholders listed on Schedule 6.6(c) who enter into Employment Agreements with PS Medical, the terms and conditions of whose employment are set forth in such Employment Agreements.

6.7) Best Efforts; Further Actions. Subject to the terms and conditions herein provided and without being required to waive any conditions herein, each of the parties hereto agrees to use its best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement. In case at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Agreement, the proper officers and directors of each party to this Agreement shall take all such necessary action.

6.8) Regulatory Approvals. PS Medical and Medtronic will take all such action as may be necessary under federal or state securities laws or the HSR Act applicable to or necessary for, and will file and, if appropriate, use their best efforts to have declared effective or approved all documents and notifications with the SEC and other governmental or regulatory bodies that they deem necessary or appropriate for, the consummation of the Merger and the transactions contemplated hereby, and each party shall give the other information reasonably requested by such other party pertaining to it and its subsidiaries and affiliates to enable such other party to take such actions, and Medtronic shall file in a timely manner all reports and documents required to be so filed by or under the 1934 Act.

6.9) Additional Financial Statements and Reports. As soon as reasonably practicable, PS Medical shall furnish to Medtronic copies of all balance sheets and related statements of income, changes in financial position and changes in shareholders' equity of PS Medical which may be regularly prepared in the ordinary course of business prior to the

Effective Time, including but not limited to such financial statements as of a specifically including monthly balance sheets and related statements of income and quarterly balance sheets and related statements of income, changes in financial position and changes in shareholders' equity. Such financial statements will be prepared in conformity with generally accepted accounting principles applied on a consistent basis and fairly present the financial condition, results of operations and changes in financial position of PS Medical and its Subsidiaries (subject, in the case of unaudited financial statements, to the absence of complete footnotes thereto), as of the dates and for the periods covered by such statements.

6.10) Certain Notifications. PS Medical shall promptly notify Medtronic in writing of the occurrence of any event that will or could reasonably be expected to result in the failure to satisfy any of the conditions specified in Article VII.

6.11) NYSE Listing Application. Medtronic shall prepare and submit to the NYSE a listing application for the Medtronic Common Stock to be issued in the Merger pursuant to Article II of this Agreement. PS Medical shall cooperate with Medtronic in such listing application.

6.12) Termination of Agreements. Upon completion of the Closing, the following agreements shall have been terminated prospectively and neither PS Medical nor Medtronic will have any further liability or obligations thereunder: Buy-Sell Agreement dated August 13, 1980; Preferred Stock Redemption Agreement dated December 17, 1993; Memorandum of Understanding dated December 26, 1985; and Employment and Invention Agreement dated December 18, 1986.

6.13) Minimum Equity. PS Medical will have, as of the Closing, total shareholders' equity, determined in accordance with generally accepted accounting principles consistent with the Schedule 3.8A Financial Statements and after accrual of the items specified in Schedule 10.1 to be accrued, of not less than Eight Million Seventy-Three Thousand One Hundred Fifty-Four Dollars (\$8,073,154). Medtronic shall have, pursuant to Section 10.1, a claim for the full amount by which PS Medical's total shareholders' equity as of the Closing is less than Eight Million Seventy-Three Thousand One Hundred Fifty-Four Dollars (\$8,073,154).

6.14) HSR Filings.

(a) The information as to PS Medical or its affiliates or shareholders included in PS Medical's filing, or submitted to Medtronic for inclusion in its filing, if any, required to be submitted under the HSR Act shall be true, correct and complete in all material respects and shall comply in all material respects with the applicable requirements of the HSR Act and the rules and regulations issued by the FTC pursuant thereto.

(b) The information as to Medtronic and Acquisition Subsidiary or any of their affiliates or shareholders included in Medtronic's filing, or submitted to PS Medical for

inclusion in its filing, if any, required to be submitted under the HSR Act shall be true, correct and complete in all material respects and shall comply in all material respects with the applicable requirements of the HSR Act and the rules and regulations issued by the FTC pursuant thereto.

6.15) Indemnification. Medtronic and Acquisition Subsidiary agree that all rights to indemnification existing in favor of the present or former directors, officers, employees, fiduciaries and agents of PS Medical (collectively, the "Indemnified Parties") as provided in PS Medical's Certificate of Incorporation or Bylaws as in effect as of the date hereof with respect to matters occurring prior to the Effective Time shall survive the Merger and shall continue in full force and effect for a period of not less than five years.

ARTICLE VII CONDITIONS TO MEDTRONIC'S OBLIGATIONS

The obligations of Medtronic under this Agreement shall, at its option, be subject to the satisfaction, on or prior to the Closing Date, of all of the following conditions:

7.1) Truth of Representations and Warranties. The representations and warranties of PS Medical and the Shareholders herein shall be true in all material respects on the Closing Date with the same effect as though made at such time, except for changes expressly contemplated by this Agreement and except for any particular representation and warranty which specifically addresses matters only as of a particular date (which shall remain true as of such date). PS Medical and the Shareholders shall have performed all material obligations and complied with all material covenants and conditions prior to or as of the Closing Date. No events shall have occurred, no circumstances shall exist and, collectively, no breaches of the representations and warranties of PS Medical contained in this Agreement shall exist as of the Closing Date that have caused or could reasonably be expected to have a material adverse effect upon PS Medical, its condition or its business. PS Medical shall have delivered to Medtronic a certificate in form and substance satisfactory to Medtronic dated as of the Closing Date and executed by the Shareholders' Representative and the President of PS Medical to all such effects.

7.2) Opinion of Counsel for PS Medical and the Shareholders. Wilson, Sonsini, Goodrich & Rosati, counsel for PS Medical and the Shareholders with respect to the transactions contemplated by this Agreement, shall have delivered to Medtronic a written opinion, dated the Closing Date, in substantially the form of the attached **Exhibit F**.

7.3) Required Consents. PS Medical and the Shareholders shall have obtained all permits, authorizations, consents and approvals required to be obtained by it pursuant to this Agreement, in form and substance satisfactory to Medtronic, and Medtronic and Acquisition Subsidiary shall have received evidence satisfactory to them of the receipt of such permits, authorizations, consents and approvals.

7.4) Litigation Affecting Closing. No suit, action or other proceeding shall be pending or threatened by any third party or by or before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by this Agreement, and no investigation that might result in any such suit, action or other proceeding shall be pending or threatened.

7.5) Legislation. No statute, rule, regulation, order, or interpretation shall have been enacted, entered or deemed applicable by any domestic or foreign government or governmental or administrative agency or court which would make the transactions contemplated by this Agreement illegal.

7.6) Employment and Noncompetition Agreements. PS Medical and its shareholders or employees shall have entered into the agreements described in Section 6.6.

7.7) Escrow Agreement. The Shareholders' Representative and the Exchange Agent shall have executed and delivered to Medtronic the Escrow Agreement, as described in Section 10.4.

7.8) Resignations. The officers and directors of PS Medical shall have tendered their resignations effective as of the Effective Time.

7.9) NYSE Listing. The shares of Medtronic Common Stock to be delivered pursuant to the Merger shall have been duly listed on the NYSE, subject to official notice of issuance.

7.10) HSR Waiting Period. The waiting period applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated.

7.11) Fee and Expenses. Medtronic shall have received written acknowledgments (i) from Piper Jaffray that Piper Jaffray shall look to the Shareholders and not PS Medical for payment of all fees and expenses payable to Piper Jaffray in connection with the transaction(s) contemplated by this Agreement, and (ii) from Wilson, Sonsini, Goodrich & Rosati that Wilson, Sonsini, Goodrich & Rosati shall look to the Shareholders and not PS Medical for payment of all fees and expenses payable in excess of the lesser of one-half or an aggregate \$125,000 paid or payable to Wilson, Sonsini, Goodrich & Rosati in connection with the transaction(s) contemplated by this Agreement.

ARTICLE VIII
CONDITIONS TO PS MEDICAL'S AND THE SHAREHOLDERS' OBLIGATIONS

The obligations of PS Medical and the Shareholders under this Agreement shall, at their option, be subject to the satisfaction, on or prior to the Closing Date, of all of the following conditions:

8.1) Truth of Representations and Warranties. The representations and warranties of Medtronic herein shall be true in all material respects on the Closing Date with the same effect as though made at such time, except for changes expressly contemplated by this Agreement and except for any particular representation and warranty which specifically addresses matters only as of a particular date (which shall remain true as of such date). Medtronic shall have performed all material obligations and complied with all material covenants and conditions prior to or as of the Closing Date. Medtronic shall have delivered to PS Medical and the Shareholders a certificate in form and substance satisfactory to Medtronic dated as of the Closing Date and executed by a Vice President of Medtronic to all such effects.

8.2) Opinion of Counsel for Medtronic. PS Medical and the Shareholders shall have received from Fredrikson & Byron, P.A., counsel for Medtronic, a written opinion dated the Closing Date, in substantially the form of the attached **Exhibit G**.

8.3) Consents. Medtronic and Acquisition Subsidiary shall have obtained all permits, authorizations, consents and approvals required to be obtained by them pursuant to this Agreement, in form and substance satisfactory to Medtronic, and PS Medical shall have received evidence satisfactory to it of the receipt of such permits, authorizations, consents and approvals.

8.4) Litigation Affecting Closing. No suit, action or other proceeding shall be pending or threatened by any third party or by or before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by this Agreement, and no investigation that might result in any such suit, action or other proceeding shall be pending or threatened.

8.5) Legislation. No statute, rule, regulation or order or interpretation shall have been enacted, entered or deemed applicable by any domestic or foreign government or governmental or administrative agency or court which would make the transactions contemplated by this Agreement illegal.

8.6) Escrow Agreement. Medtronic and the Exchange Agent shall have executed and delivered to the Shareholders' Representative the Escrow Agreement, as described in Section 10.4.

8.7) Tax Opinion. Since the date of this Agreement, there shall not have been any change in the facts, circumstances or applicable federal tax laws which would prevent the Shareholders from receiving an opinion, dated the Closing Date, of Wilson, Sonsini, Goodrich & Rosati, counsel to PS Medical, to the effect that, subject to customary conditions, the Merger will be treated for federal income tax purposes as a reorganization within the meaning of Section 368(a)(2)(D) of the Code.

8.8) NYSE Listing. The shares of Medtronic Common Stock to be delivered pursuant to the Merger shall have been duly listed on the NYSE, subject to official notice of issuance.

8.9) HSR Waiting Period. The waiting period applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated.

ARTICLE IX CLOSING

9.1) Closing Date. The consummation of the Merger provided for herein (the "Closing") shall take place at 10:00 a.m. (local time) on October 13, 1995, or as soon thereafter as all conditions to Closing have been satisfied or waived, or on such other date and/or at such other time as the parties hereto may agree upon (the "Closing Date"). The Closing shall take place at the offices of PS Medical, or at such other place or in such other manner (e.g. by telecopy exchange of signature pages with originals to follow by overnight delivery) as the parties hereto may agree.

9.2) Closing Deliveries of the Shareholders. In addition to, and without limiting any other provisions of this Agreement, PS Medical and the Shareholders shall deliver the items referred to in subsections (a) through (d) below, in form reasonably satisfactory to Medtronic and its counsel:

(a) Resignations, effective as of the Closing, of all of PS Medical's Board of Directors and of any PS Medical officers specified by Medtronic at least one day prior to Closing.

(b) Certified copies of PS Medical's Articles of Incorporation and a Certificate of Status, each certified by the California Secretary of State as of a date not more than five business days prior to the Closing Date, and a certificate of the California Franchise Tax Board dated not more than five business days prior to Closing Date, to the effect that PS Medical is in good standing, has no known unpaid tax liability, and is entitled to transact business in the State of California.

(c) Certificates executed by PS Medical reasonably acceptable to Medtronic certifying that an interest in PS Medical does not represent a U.S. real property

interest within the meaning of Section 1445 of the Code and the regulations promulgated thereunder.

(d) All of the documents, certificates, instruments and opinions required to be delivered to Medtronic under Article VII of this Agreement.

9.3) Closing Deliveries of Medtronic. In addition to, and without limiting any other provisions of this Agreement, Medtronic shall, at the Closing, deliver to PS Medical in form reasonably satisfactory to PS Medical and its counsel, the documents and opinion required to be delivered to the Shareholders under Article VIII of this Agreement.

9.4) Proceedings. All proceedings taken and all documents executed and delivered by the parties hereto at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed taken nor any documents executed or delivered until all have been taken, executed and delivered.

ARTICLE X INDEMNIFICATION

10.1) Indemnification of Medtronic. The Shareholders severally and not jointly (except with respect to claims which arise out of or relate to any fraud or intentional misrepresentation by PS Medical or the Shareholders, with respect to which such indemnification shall be joint and several), shall indemnify, defend and hold harmless Medtronic and each of its subsidiaries (including PS Medical), officers and directors (Medtronic and such other indemnitees referred to in this Article X as "Medtronic") from and against and in respect of any and all demands, claims, actions or causes of action, assessments, losses, damages, liabilities, interest and penalties, costs and expenses (including, without limitation, reasonable legal fees and disbursements incurred in connection therewith and in seeking indemnification therefor, and any amounts or expenses required to be paid or incurred in connection with any action, suit, proceeding, claim, appeal, demand, assessment or judgment), resulting from, arising out of, or imposed upon or incurred by any person to be indemnified hereunder by reason of any of the following ("Indemnifiable Losses"):

(i) any breach of any representation, warranty, covenant or agreement of PS Medical or the Shareholders contained in this Agreement or any agreement, certificate or document executed and delivered by PS Medical or the Shareholders pursuant hereto or in connection with any of the transactions contemplated by this Agreement; (but only if and to the extent Indemnifiable Losses under this subparagraph (i) exceed an aggregate of \$200,000); and

(ii) those matters specifically identified on Schedule 10.1;

provided that each Shareholder's liability under Section 10.1 shall be limited as set forth in Section 10.5.

10.2) Indemnification of the Shareholders. Medtronic shall indemnify, defend and hold harmless the Shareholders and their affiliates, agents and counsel from and against and in respect of any and all demands, claims, actions or causes of action, assessments, losses, damages, liabilities, interest and penalties, costs and expenses (including, without limitation, reasonable legal fees and disbursements incurred in connection therewith and in seeking indemnification therefor, and any amounts or expenses required to be paid or incurred in connection with any action, suit, proceeding, claim, appeal, demand, assessment or judgment), resulting from, arising out of, or imposed upon or incurred by any person to be indemnified hereunder by reason of any breach of any representation, warranty, covenant or agreement of Medtronic contained in this Agreement or any agreement, certificate or document executed and delivered by Medtronic pursuant hereto or in connection with the transactions contemplated by this Agreement.

10.3) Third Party Claims. If a claim by a third party is made against an indemnified party and if the indemnified party intends to seek indemnity with respect thereto under this Article X, such indemnified party shall promptly notify the indemnifying party of such claim; provided, however, that failure to give timely notice shall not affect the rights of the indemnified party so long as the failure to give timely notice does not adversely affect the indemnifying party's ability to defend such claim against a third party. The indemnified party shall not settle such claim without the consent of the indemnifying party, which consent shall not be unreasonably withheld or delayed. If the indemnifying party acknowledges in writing its indemnity obligations for Indemnifiable Losses resulting therefrom, the indemnifying party may participate at its own cost and expense in the settlement or defense of any claim for which indemnification is sought; provided that, such settlement or defense shall be controlled by the indemnified party.

10.4) Escrow. In order to provide for possible indemnification in accordance with Article X of this Agreement, the Exchange Agent shall retain the number of shares (rounded down to the nearest whole share) of Medtronic Common Stock issued pursuant to Section 2.3(a) equal in value to an aggregate \$5,000,000 (the "Escrow Shares"), determined by dividing \$5,000,000 by the Average Market Price at the Effective Time, with such retention to be made ratably out of the shares of Medtronic Common Stock otherwise issuable to each of the Shareholders. Such retained Escrow Shares shall be held pursuant to and under the terms, conditions, and instructions relating to the holding, investment, and disbursement of the Escrow Shares, as set forth in an escrow agreement (the "Escrow Agreement") among Medtronic, PS Medical, the Shareholders' Representative and the Exchange Agent to be executed on or before the Closing Date in substantially the form attached hereto as **Exhibit B**. Upon the expiration of the Survival Period described in Section 13.3 hereof or, if later, the final resolution of any claims for indemnification pursuant to Article X hereof, the Exchange Agent shall distribute to the Shareholders their ratable shares of the Escrow Shares, including any dividends or distributions thereon as described below, to the extent that

the Escrow Shares have not been distributed to Medtronic in satisfaction of, or retained pending the resolution of, any claims for indemnification pursuant to Article X hereof. For purposes of satisfying any Medtronic claim for indemnification pursuant to Article X hereof, the number of Escrow Shares to be distributed to Medtronic or retained pending resolution of such claim shall be equal to the amount of such claim divided by the Average Market Price as of the Effective Date. Dividends or distributions received on the Escrow Shares shall be retained by the Exchange Agent and shall become distributable to the Shareholders in accordance with their ratable shares only upon the expiration of the Survival Period and final resolution of any then pending claims against the Escrow Shares and such dividends or distributions, as provided in Article X. Subject to the Escrow Agreement, the Shareholders shall retain their voting rights with respect to securities retained by the Exchange Agent in accordance with Section 2.7.

10.5) Set-Off. Medtronic's and PS Medical's recovery for Indemnifiable Losses which do not arise out of or relate to any fraud or intentional misrepresentation by PS Medical or the Shareholders shall be limited exclusively to recovery from the Escrow Account and set-off against any or all unissued or unpaid portions of the merger consideration described in Section 2.3 which would otherwise be owed to the Shareholders. Such set-off shall be exercised pro-rata among all Shareholders; provided that set-off of Indemnifiable Losses arising out of or related to a breach of Section 3.4 (Title to PS Medical Stock; Authority of the Shareholders), Section 3.6 (Binding Obligation), or Section 3.7 (Consents Required) shall be exercised first against the Shareholder with respect to whom Section 3.4, 3.6 or 3.7 is breached. Medtronic's and PS Medical's recovery from the Shareholders for Indemnifiable Loss arising out of or related to any fraud or intentional misrepresentation by PS Medical or the Shareholders shall not be limited to the Escrow Account and set-off against the merger consideration.

10.6) Waiver of Subrogation. From and after the Closing, the Shareholders shall not have any rights to indemnification, contribution or subrogation from Medtronic, PS Medical or their successors, whether pursuant to Medtronic's, PS Medical's or their successors' Articles of Incorporation, Bylaws, insurance policies or otherwise, with respect to acts or events occurring at or prior to the Closing, except as otherwise provided in Section 10.2.

10.7) PS Medical's Indemnification of Medtronic. In the event the Closing does not occur, the obligations set forth in Section 10.1 shall be the obligations of PS Medical.

10.8) Cooperation as to Indemnified Liability. Each party hereto shall cooperate fully with the other parties with respect to reasonable access to books, records, or other documentation within such party's control, if deemed reasonably necessary or appropriate by any party in the defense of any claim which may give rise to indemnification hereunder.

10.9) Insurance. Medtronic shall have no obligation to maintain any insurance coverage with respect to PS Medical or its business. The Shareholders may, if they desire, purchase products liability insurance (a so-called "tail policy") covering all products or services manufactured or sold by PS Medical prior to the Effective Date.

ARTICLE XI TERMINATION

11.1) Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or after approval by the shareholders of PS Medical, only:

(a) by mutual consent of the Board of Directors of Medtronic and the Board of Directors of PS Medical;

(b) by either Medtronic or PS Medical if, without fault of such terminating party, the Merger shall not have been consummated on or before November 30, 1995; provided that if the parties receive a second request for information from the FTC extending the waiting period under the HSR Act, such date shall be extended to December 30, 1995;

(c) by PS Medical if any of the conditions specified in Article VIII hereof has not been waived by PS Medical or met at such time as such condition can no longer be satisfied; or

(d) by Medtronic if any of the conditions specified in Article VII hereof has not been waived by Medtronic or met at such time as such condition can no longer be satisfied.

11.2) Procedure and Effect of Termination. In the event of termination and abandonment of the Merger by Medtronic or by PS Medical pursuant to Section 11.1 hereof, written notice thereof shall immediately be given to the other party and this Agreement shall terminate and the Merger shall be abandoned, without further action by any of the parties hereto. Acquisition Subsidiary agrees that any termination by Medtronic shall be conclusively binding upon Acquisition Subsidiary, whether given expressly on its behalf or not, and PS Medical shall have no further obligation with respect to Acquisition Subsidiary. If this Agreement is terminated as provided herein, no party hereto shall have any liability hereunder or further obligation hereunder to any other party to this Agreement except as stated in Article X and in Section 13.7 hereof, which Sections shall survive any such termination and continue in effect thereafter; provided, however, that nothing in this Article XI shall relieve any party of liability for breach of this Agreement. In the event of any termination of this Agreement, the Confidentiality Agreement shall govern any confidential information about the other party obtained pursuant to this Agreement.

**ARTICLE XII
ALTERNATIVE DISPUTE RESOLUTION**

12.1) Notice of Dispute. If any dispute arises among the parties hereto with respect to this Agreement or any alleged breach hereof, any party may, by written notice to the other party, have such dispute referred to their respective employees designated below or their successors for attempted resolution by good faith negotiations within 30 days after such notice is received. Such designated employees are as follows:

For PS Medical and the Shareholders - Gary East or his designee

For Medtronic - the Chief Executive Officer of Medtronic, or his or her designee

Following the Effective Time, the Shareholders' Representative may designate a person to act on behalf of the PS Medical shareholders, by notice to Medtronic provided pursuant to Section 13.5. Any settlement reached by the parties under this Section 12.1 shall not be binding until reduced to writing and signed by the above-specified employees of Medtronic and PS Medical. When reduced to writing, such settlement agreement shall supersede all other agreements, written or oral, to the extent such agreements specifically pertain to the matters so settled. If the designated employees are unable to resolve such dispute within such 30-day period, any party may invoke the provisions of Section 12.2 below.

12.2) Arbitration. All claims, disputes, controversies, and other matters in question arising out of or relating to this Agreement or the Escrow Agreement, including claims for Indemnifiable Losses and disputes regarding the making of this Agreement, including claims of fraud in the inducement, or to the alleged breach hereof, shall be settled by negotiation between the parties as described in Section 12.1 above or, if negotiation is unsuccessful, by binding arbitration in accordance with procedures set forth in Section 12.3 and 12.4 below.

12.3) Notice. Notice of demand for binding arbitration shall be given in writing to the other parties pursuant to Section 13.5. In no event may a notice of demand of any kind be filed more than two years after the date the claim, dispute, controversy, or other matter in question was asserted by one party against another, and if such demand is not timely filed, the claim, dispute, controversy, or other matter in question referenced in the demand shall be deemed released, waived, barred, and unenforceable for all time, and barred as if by statute of limitations.

12.4) Binding Arbitration. Upon filing of a notice of demand for binding arbitration by any party hereto, arbitration shall be commenced and conducted as follows:

(a) Arbitrators. All claims, disputes, controversies, and other matters (collectively "matters") in question shall be referred to and decided and settled by a standing panel of three independent arbitrators, one selected by each of Medtronic and PS Medical's representative and the third by the two arbitrators so selected. The

third shall be a former judge of one of the U.S. District Courts or one of the U.S. Court of Appeals or such other classes of persons as the parties may agree. Selection of arbitrators shall be made within 30 days after the date of the first notice of demand given pursuant to Section 12.3 and within 30 days after any resignation, disability or other removal of such arbitrator. Following appointment, each arbitrator shall remain a member of the standing panel, subject to recusal for just cause or resignation or disability; provided, however, an arbitrator can be removed by the party who appointed the arbitrator, or in the case of the third arbitrator, by either party for any reason at any time when no matter is in arbitration.

(b) Cost of Arbitration. The cost of each arbitration proceeding, including without limitation the arbitrators' compensation and expenses, hearing room charges, court reporter transcript charges etc., shall be borne by the party whom the arbitrators determine has not prevailed in such proceeding, or borne equally by the parties if the arbitrators determine that neither party has prevailed. The arbitrators shall also award the party that prevails substantially in its pre-hearing position its reasonable attorneys' fees and costs incurred in connection with the arbitration. The arbitrators are specifically instructed to award attorneys' fees for instances of abuse of the discovery process.

(c) Location of Proceedings. All arbitration proceedings shall be held in Denver, Colorado, unless the parties agree otherwise.

(d) Pre-hearing Discovery. The parties shall have the right to conduct and enforce pre-hearing discovery in accordance with the then current Federal Rules of Civil Procedure, subject to these limitations: Document discovery and other discovery shall be under the control of and enforceable by the arbitrators. The arbitrators shall permit and facilitate such other discovery as they shall determine is appropriate under the circumstances, taking into account the needs of the parties and the desirability of making discovery expeditious and cost effective. Discovery disputes shall be decided by the arbitrators. The arbitrators are empowered:

- (i) to issue subpoenas to compel pre-hearing document or deposition discovery;
 - (ii) to enforce the discovery rights and obligations of the parties;
- and
- (iii) to otherwise control the scheduling and conduct of the proceedings.

Notwithstanding any contrary foregoing provisions, the arbitrators shall have the power and authority to, and to the fullest extent practicable shall, abbreviate

arbitration discovery in a manner that is fair to all parties in order to expedite the conclusion of each alternative dispute resolution proceeding.

(e) Pre-hearing Conference. Within 45 days after filing of notice of demand for binding arbitration, the arbitrators shall hold a pre-hearing conference to establish schedules for completion of discovery, for exchange of exhibit and witness lists, for arbitration briefs, for the hearing, and to decide procedural matters and all other questions that may be presented.

(f) Hearing Procedures. The hearing shall be conducted to preserve its privacy and to allow reasonable procedural due process. Rules of evidence need not be strictly followed, and the hearing shall be streamlined as follows:

(i) Documents shall be self-authenticating, subject to valid objection by the opposing party;

(ii) Expert reports, witness biographies, depositions, and affidavits may be utilized, subject to the opponent's right of a live cross-examination of the witness in person;

(iii) Charts, graphs, and summaries shall be utilized to present voluminous data, provided (i) that the underlying data was made available to the opposing party 30 days prior to the hearing, and (ii) that the preparer of each chart, graph, or summary is available for explanation and live cross-examination in person;

(iv) The hearing should be held on consecutive business days without interruption to the maximum extent practicable; and

(v) The arbitrators shall establish all other procedural rules for the conduct of the arbitration in accordance with the rules of arbitration of the Center for Public Resources.

(g) Governing Law. This arbitration provision shall be governed by, and all rights and obligations specifically enforceable under and pursuant to, the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and the laws of the State of Minnesota shall be applied, without reference to the choice of law principles thereof, in resolving matters submitted to such arbitration.

(h) Consolidation. No arbitration shall include, by consolidation, joinder, or in any other manner, any additional person not a party to this Agreement (other than affiliates of any such party, which affiliates may be included in the arbitration), except by written consent of the parties hereto containing a specific reference to this Agreement.

(i) Award. The arbitrators are empowered to render an award of general compensatory damages and equitable relief (including, without limitation, injunctive relief), but are not empowered to award punitive or presumptive damages. The award rendered by the arbitrators (1) shall be final; (2) shall not constitute a basis for collateral estoppel as to any issue; and (3) shall not be subject to vacation or modification, except in the event of fraud or gross misconduct on the part of the arbitrators.

(j) Confidentiality. The parties hereto will maintain the substance of any proceedings hereunder in confidence and make disclosures to others only to the extent necessary to properly conduct the proceedings.

ARTICLE XIII OTHER PROVISIONS

13.1) Further Assurances. At such time and from time to time on and after the Closing Date upon request by Medtronic, the Shareholders will execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances that may be required for the better conveying, transferring, assigning, delivering, assuring and confirming to Medtronic, or to its respective successors and assigns all of the PS Medical Stock or to otherwise carry out the purposes of this Agreement.

13.2) Complete Agreement. The Schedules and Exhibits to this Agreement shall be construed as an integral part of this Agreement to the same extent as if they had been set forth verbatim herein. This Agreement and the Schedules and Exhibits hereto, together with the Confidentiality Agreement, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements whether written or oral relating hereto.

13.3) Survival of Representations, Warranties and Agreements. The representations, warranties, covenants and agreements contained in Articles III and IV of this Agreement, as brought current to the Closing Date pursuant to Section 7.1 or Section 8.1 respectively, shall survive the Closing and remain in full force and effect until eighteen months after the Closing Date (the "Survival Period"); provided that the Shareholders' obligation in Section 10.1 to indemnify Medtronic for any breach of the representation or warranty set forth in Section 3.9 or Section 3.27 shall remain in force and effect until expiration of all applicable statutes of limitation, subject to Section 10.5. Expiration of a representation, warranty, covenant or agreement pursuant to this Section shall not limit or otherwise affect the right of a party to indemnification under Article X if notice was sent to the party from whom indemnification is sought of the basis for such claim to indemnification prior to such expiration. No independent investigation of PS Medical by Medtronic, its counsel, or any of

its agents or employees shall in any way limit or restrict the scope of the representations and warranties made by PS Medical or the Shareholders in this Agreement.

13.4) Waiver, Discharge, Amendment, Etc. The failure of any party hereto to enforce at any time any of the provisions of this Agreement, including the election of such party to proceed with the Closing despite a failure of any condition to such party's closing obligations to occur, shall in no way be construed to be a waiver of any such provision, nor in any way to affect the validity of this Agreement or any part thereof or the right of the party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. This Agreement may be amended by PS Medical and Medtronic, by mutual action approved by their respective Boards of Directors or their respective officers authorized by such Board of Directors, at any time prior to the Closing Date. Any amendment to this Agreement shall be in writing and signed by PS Medical, the Shareholders' Representative, and Medtronic.

13.5) Notices. All notices or other communications to a party required or permitted hereunder shall be in writing and shall be delivered personally or by telecopy to such party (or, in the case of an entity, to an executive officer of such party) or shall be given by certified mail, postage prepaid with return receipt requested, addressed as follows:

if to Medtronic or, after the Closing to PS Medical, to:

Medtronic, Inc.
Corporate Center
7000 Central Avenue N.E.
Minneapolis, Minnesota 55432
with separate copies thereof addressed to
Attention: General Counsel
and
Attention: Vice President, Corporate Development and Associate General Counsel

and if to the Shareholders, or prior to the Closing to PS Medical, to:

PS Medical
125 Cremona Drive
Goleta, California 93117
Attention: Gary P. East, President and CEO
Telecopy Number: (805) 968-6889

with a copy to:

Wilson, Sonsini, Goodrich & Rosati
Two Palo Alto Square
Palo Alto, California 94306
Attention: Robert Jack, Esq.
Telecopy Number: (415) 496-4088

Any party may change the above-specified recipient and/or mailing address by notice to all other parties given in the manner herein prescribed. All notices shall be deemed given on the day when actually delivered as provided above (if delivered personally or by telecopy) or on the day shown on the return receipt (if delivered by mail).

13.6) Public Announcement. The parties intend that all future statements or communications to the public or press regarding this Agreement or the Merger will be mutually agreed upon by them. Neither party shall, without such mutual agreement or the prior consent of the other, issue any statement or communication to the public or to the press regarding this Agreement, or any of the terms, conditions or other matters with respect to this Agreement, except as required by law or the rules of the NYSE and then only: (a) upon the advice of such party's legal counsel; (b) to the extent required by law or the rules of the NYSE; and (c) following prior notice to, and consultation with, the other party (which notice shall include a copy of the proposed statement or communication to be issued to the press or public).

13.7) Expenses. Medtronic shall pay its own expenses incident to this Agreement and the preparation for, and consummation of, the transactions provided for herein. The Shareholders shall pay any and all expenses of PS Medical and the Shareholders incident to this Agreement and the preparation for, and consummation of, the transactions provided for herein; provided that PS Medical may pay up to the lesser of one-half (1/2) or \$125,000 of actual attorney's fees and expenses only incurred by PS Medical and/or the Shareholders.

13.8) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota, including all matters of construction, validity, performance and enforcement, without giving effect to principles of conflict of laws.

13.9) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors or assigns of the parties hereto; provided that the rights of PS Medical and the Shareholders herein may not be assigned except as provided in Section 2.8 and Section 5.11 and the rights of Medtronic may only be assigned to an Affiliate of Medtronic.

13.10) Titles and Headings; Construction. The Table of Contents, titles and headings to the Articles and Sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this

Agreement. This Agreement shall be construed without regard to any presumption or other rule requiring construction hereof against the party causing this Agreement to be drafted.

13.11) Benefit. Nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13.12) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed as original and all of which together shall constitute one instrument.

13.13) Attorney-in-Fact for Shareholders. Each Shareholder appoints Gary P. East as such Shareholder's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such Shareholder and in such Shareholder's name, place and stead to act on behalf of such Shareholder to resolve matters arising in connection with the transactions contemplated by this Agreement. In furtherance of the foregoing, each Shareholder grants to Gary P. East full authority to amend the Agreement, waive any provision of the Agreement, settle or compromise any claim, authorize any payment, and take any action in connection with this Agreement. In the event of the death, resignation or incapacity of Gary P. East, each Shareholder appoints Rudolf Schulte to succeed Gary P. East as the Shareholders' Representative hereunder with the full authority granted by this Section. Any further successors shall be selected, and any Shareholders' Representative may be removed and replaced, in accordance with Section 19 of the Escrow Agreement, which is hereby incorporated herein by reference. The Shareholders' Representative shall not be liable for any action taken or determination made in good faith in connection with the exercise of his authority pursuant to this Section.

13.14) Disclosure. Each Shareholder acknowledges that such Shareholder has had an opportunity to review the transactions contemplated by this Agreement with such Shareholder's tax, legal, or other advisors if so desired.

13.15) Consent of Spouse. Each Shareholder who is a married individual represents and warrants that such Shareholder's spouse has executed the form of Consent of Spouse attached hereto as Exhibit H.

IN WITNESS WHEREOF, each of the parties has caused this Agreement and Plan of Reorganization to be executed in the manner appropriate for each, and to be dated as of the date first above-written.

PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION
("PS Medical")

(Corporate Seal)

By: _____

Its: _____

MEDTRONIC, INC.
("Medtronic")

(No Corporate Seal)

By: 

Its: Vice President

MDT ACQUISITION CORP.

(No Corporate Seal)

By: 

Its: President

(signatures continued)

[Signature page to Agreement and Plan of Merger among
Medtronic, Acquisition Subsidiary and PS Medical]

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PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION
("PS Medical")

(Corporate Seal)

By: *James A. East*

Its: *President and Chief Executive Officer*

MEDTRONIC, INC.
("Medtronic")

(No Corporate Seal)

By: _____

Its: _____

MDT ACQUISITION CORP.

(No Corporate Seal)

By: _____

Its: _____

(signatures continued)

[Signature page to Agreement and Plan of Merger among
Medtronic, Acquisition Subsidiary and PS Medical]

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PUDENZ-SCHULTE MEDICAL RESEARCH CORPORATION
("PS Medical")

(Corporate Seal)

By: _____

Its: _____

MEDTRONIC, INC.
("Medtronic")

(No Corporate Seal)

By: Michael D. Blum

Its: Vice President

MDT ACQUISITION CORP.

(No Corporate Seal)

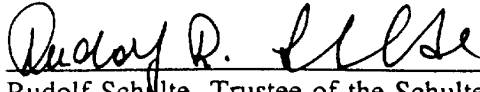
By: Michael D. Blum

Its: President

(signatures continued)

[Signature page to Agreement and Plan of Merger among
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THE SHAREHOLDERS:



Rudolf Schulte, Trustee of the Schulte 1991
Revocable Trust under agreement dated 3-24-91

Schulte Research Institute

By: _____
Its: _____

James H. Franzen, Trustee of the Schulte Family
Trust of under agreement dated 12/29/94.

Gary P. East

Alfons Heindl

Robert Pudenz

Marga M. Bryant (fka Marga Schroeder)

Joseph E. Brown

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THE SHAREHOLDERS:

Rudolf Schulte, Trustee of the Schulte 1991
Revocable Trust under agreement dated 3-24-91

Schulte Research Institute

By: Rudolf R. Schulte
Its: Chairman of the Board
+ President

James H. Franzen, Trustee of the Schulte Family
Trust of under agreement dated 12/29/94.

Gary P. East

Alfons Heindl

Robert Pudenz

Marga M. Bryant (fka Marga Schroeder)

Joseph E. Brown

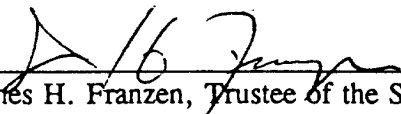
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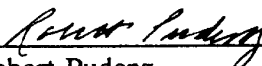
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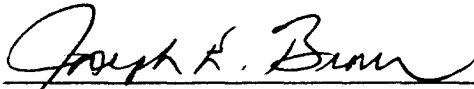
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