

06-30-1998



COVER SHEET ONLY

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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Tab settings

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

1. Name of conveying party(ies):

INSILCO CORPORATION

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

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: July 31, 1990

2. Name and address of receiving party(ies)

Name: INSILCO CORPORATION

Internal Address: 425 Metro Place North

Street Address: 425 Metro Place North

City: Dublin State: OH ZIP: 43017

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

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

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached?  Yes  No

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,063,320

Additional numbers attached?  Yes  No

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

Name: Mary A. Miller

Internal Address: Foley & Lardner

777 East Wisconsin Avenue

Milwaukee, WI 53202-5367

Street Address: Foley & Lardner

777 East Wisconsin Avenue

City: Milwaukee State: WI ZIP: 53202

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41).....\$ 40.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

06/29/1998 MCDATES 00000204 1063320

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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.

Mary A. Miller

Name of Person Signing

Signature

June 19, 1998

Date

Total number of pages including cover sheet, attachments, and document: 15

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

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VOL 1168

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CERTIFICATE OF MERGER  
of  
INSILCO CORPORATION  
and  
INSILCO CORPORATION (DELAWARE)

FIRST: Pursuant to resolutions adopted by written consents dated May 27, 1990, the Boards of Directors of Insilco Corporation (Delaware), a Delaware corporation ("Insilco-Delaware"), and of Insilco Corporation, a Connecticut corporation ("Insilco-Connecticut") and owner of all of the outstanding shares of capital stock of Insilco-Delaware, determined to, and hereby do, merge Insilco-Connecticut with and into Insilco-Delaware (the "Merger").

SECOND: The plan of merger adopted by each respective Board of Directors is as set forth on Exhibit A-1 hereto.

THIRD: Upon effectiveness of the Merger the name of the Surviving Corporation shall be changed to Insilco Corporation.

FOURTH: The Merger will effect the following changes to the Certificate of Incorporation of the Surviving Corporation: (i) the name of the Surviving Corporation in Article FIRST shall be changed to Insilco Corporation and (ii) Article FOURTH shall be deleted and a new Article FOURTH inserted in lieu thereof, as set forth in the plan of merger attached hereto as Exhibit A-1.

FIFTH: The plan of merger was adopted by the constituent corporations in the following manner:

(a) The plan of merger was approved by resolutions adopted by the Board of Directors of each constituent corporation.

(b) Pursuant to Sections 33-366 and 33-370 of the Connecticut Stock Corporation Act, Section 253 of the Delaware General Corporation Law and Article FOURTH, Section III (3) of the Restated Certificate of Incorporation, as amended, of Insilco-Connecticut, the plan of merger was approved and adopted by the affirmative vote of the holders of a majority of the voting power of the outstanding shares of each class of stock of Insilco-Connecticut. Insilco-Connecticut has 11,437,322 shares of Common Stock and 48,084,742 shares of Class A Stock issued and outstanding. All shareholders of Insilco-Connecticut

have signed a unanimous written consent approving and adopting the plan of merger attached hereto as Exhibit A-1.

(c) Pursuant to the terms of Section 33-370 of the Connecticut Stock Corporation Act and Section 253 of the Delaware General Corporation Law, the stockholders of Insilco-Delaware are not required to vote on the Merger.

SIXTH: Insilco-Connecticut has complied with the applicable provisions of the laws of the State of Connecticut under which it is incorporated, and this Merger is permitted by such laws.

SEVENTH: This Merger is permitted by the laws of the State of Delaware.

EIGHTH: Insilco-Delaware, as the Surviving Corporation, hereby (a) agrees that it may be served with process in the State of Connecticut in any proceeding for the enforcement of any obligation of the undersigned domestic corporation and in any proceeding for the enforcement of the rights of a dissenting shareholder of such domestic corporation against the Surviving Corporation and (b) irrevocably appoints the Secretary of State of the State of Connecticut as its attorney to accept service of process in any such proceeding and that the post office address to which the Secretary of State may mail a copy of any process that may be served upon him is 300 North Marienfeld, Suite 400, Midland, Texas 79701; Attention: General Counsel.

Dated at Midland, Texas this 29th day of July 1990.

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WE HEREBY DECLARE, under the penalties of false statement, that the statements made in the foregoing certificate, insofar as they pertain to Insilco Corporation (Delaware), a Delaware corporation, are true and correct.

INSILCO CORPORATION (DELAWARE)

By: J. Randal Greaves  
J. Randal Greaves  
President

By: Karen L. Wolf  
Karen L. Wolf  
Secretary

WE HEREBY DECLARE, under the penalties of false statement, that the statements made in the foregoing certificate, insofar as they pertain to Insilco Corporation, a Connecticut corporation, are true and correct.

INSILCO CORPORATION

By: J. Randal Greaves  
J. Randal Greaves  
Executive Vice President

By: Karen L. Wolf  
Karen L. Wolf  
Secretary

FILED  
STATE OF CONNECTICUT  
JUL 31 11 00 AM '50  
By: [Signature]

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INFOSEARCH, INC.  
30 HIGH STREET  
HARTFORD, CT 06103  
JB 8-1-50

## PLAN OF MERGER

Insilco Corporation, a Connecticut corporation ("Insilco-Connecticut"), shall be merged with and into Insilco Corporation (Delaware), a Delaware corporation ("Insilco-Delaware"), pursuant to Section 33-370 of the Connecticut Stock Corporation Act and Section 253 of the Delaware General Corporation Law, and Insilco-Delaware shall be the surviving corporation (in such capacity, the "Surviving Corporation") of such merger (the "Merger").

Upon consummation of the Merger, the name of the Surviving Corporation shall be changed to "Insilco Corporation", and Article FIRST of the Certificate of Incorporation of the Surviving Corporation shall be amended to so provide.

Effective upon consummation of the Merger, Article FOURTH of the Certificate of Incorporation of the Surviving Corporation will be amended by deleting the existing provisions of Article FOURTH in their entirety and inserting in lieu thereof the text set forth as Exhibit A-2, attached hereto.

From and after the consummation of the Merger until altered, amended or repealed, the Certificate of Incorporation and bylaws of the Surviving Corporation shall be the Certificate of Incorporation, as amended by the above amendments, and bylaws of Insilco-Delaware as in effect immediately prior to the Merger, respectively.

Upon consummation of the Merger, the board of directors of the Surviving Corporation shall be the directors of Insilco-Delaware in office immediately prior to the Merger.

Upon consummation of the Merger, the officers of the Surviving Corporation shall be the officers of Insilco-Delaware in office immediately prior to the Merger.

The Surviving Corporation shall pay all expenses of carrying this agreement of Merger into effect and of accomplishing the Merger.

Upon consummation of the merger, each holder of shares of Common Stock, no par value, of Insilco-Connecticut shall receive in exchange for such shares an equal number of shares of Common Stock, par value \$.001 per share, of the Surviving Corporation, each holder of shares of Class A Stock, no par value, of Insilco-Connecticut shall receive in exchange for such shares an equal number of shares of Class A Stock, par value \$.001 per share, of the Surviving Corporation, and all the shares of Insilco-Delaware owned by Insilco-Connecticut immediately prior to the effectiveness of the Merger shall be surrendered and cancelled.

Text of Article FOURTH of  
Certificate of Incorporation

FOURTH: The total number of shares of all classes of stock which the Company shall have authority to issue is 150,000,000 shares, divided into classes as follows:

2,000,000 shares shall be Preferred Stock, par value \$.001 per share ("Preferred Stock");

98,000,000 shares shall be Common Stock, par value \$.001 per share ("Common Stock"); and

50,000,000 shares shall be Class A Stock, par value \$.001 per share ("Class A Stock").

## SECTION I. PREFERRED STOCK

The Board of Directors of the Company is expressly authorized and vested with the authority, at any time and from time to time, to provide for the issuance of shares of Preferred Stock of the Company in one or more series and to establish with respect to each such series, to the extent not set forth in this Certificate of Incorporation, the voting powers, if any, full or limited, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions and any other conditions thereof, including, without limiting the generality of the foregoing, the following:

(1) the distinctive designation and number of shares of each such series and the stated value thereof;

(2) the amount or amounts to which the holders of the shares of such series are entitled upon the liquidation of, or upon the distribution of assets of, the Company, which amounts may be different in the case of voluntary liquidation than in the case of involuntary liquidation, and the preference or relationship of such amount or amounts payable on any other class or series of capital stock of the Company;

(3) whether the shares of each such series shall be subject to redemption by the Company, and, if made subject to such redemption, the times, prices, rates, adjustments and other terms and conditions of such redemption;

(4) the dividends, if any, payable with respect to shares of such series, the conditions and dates upon which such dividends shall be payable, the preference or relation of such dividends to dividends payable on any

other class or series of capital stock of the Company and whether such dividends shall be cumulative, partially cumulative or noncumulative;

(5) the terms, conditions and amount of any sinking or similar purchase or other fund providing for the purchase or redemption of the shares of each such series and the manner in which the same is to be applied;

(6) whether the shares of each such series shall be convertible into or exchangeable for shares of capital stock or other securities of the Company or of any other corporation or entity, and, if provision be made for conversion or exchange, the times, prices, rates, adjustments and other terms and conditions of such conversion or exchange;

(7) whether the shares of such series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terms of such voting rights, which may be general or limited; and

(8) any other relative, participating, optional or other special rights and preferences or qualifications, limitations or restrictions of shares of such series consistent with this Article FOURTH and applicable law, as it now exists or may be amended in the future.

Consistent with this Article FOURTH and applicable law, any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any series of Preferred Stock of the Company may be dependent upon facts ascertainable outside this Certificate of Incorporation or any amendment hereto, or outside the resolutions providing for the issue of such series of stock adopted by the Board of Directors pursuant to authority expressly vested in it by this Certificate of Incorporation. Except as may otherwise be required by applicable law or this Certificate of Incorporation, the terms of any series of Preferred Stock may be amended without consent of the holders of any other series of Preferred Stock or of any class of capital stock of the Company.

## SECTION II. CLASS A STOCK AND COMMON STOCK

Except as provided in this Article FOURTH, each of the Class A Stock and the Common Stock shall have the same rights and privileges and shall rank equally, share ratably and be identical in all respects as to all matters.

(1) Voting Rights. (a) Except as expressly provided herein, at every meeting of stockholders of the Company, each share of Common Stock shall entitle the holder thereof as shown on the transfer books of the Company (hereinafter called a "Common Stock Holder") to one vote in person or by proxy, and each share of Class A Stock shall entitle the holder thereof as shown on the transfer books of the Company (hereinafter called a "Class A Holder") to five votes in person or by proxy.

(b) At every meeting of the stockholders at which Directors are to be elected, Class A Holders and Common Stock Holders, voting as a single class together with the holders of any Preferred Stock entitled to vote generally in the election of Directors, shall be entitled to elect the total number of Directors to be elected at such meeting (exclusive of any Directors to be elected by class vote of holders of any Preferred Stock).

(c) Any vacancy or vacancies in the Board of Directors arising during the interval between annual meetings of stockholders for the election of Directors by reason of resignation, death, retirement, disqualification or removal may be filled in accordance with the Bylaws of the Company.

(d) Except as otherwise may be required by law or by this Certificate of Incorporation, Class A Holders and Common Stock Holders shall vote together as a single class, subject to any voting rights that may be granted to holders of Preferred Stock of the Company.

(e) No Class A Holder or Common Stock Holder shall have the right to cumulate votes in the election of Directors of the Company or for any other purpose.

(2) Dividends, Combinations and Reclassifications. (a) Subject to the rights of holders of Preferred Stock of the Company, Class A Holders and Common Stock Holders shall be entitled to share ratably, on a share for share basis, as a single class, in any and all dividends, payable in cash or otherwise (except as provided in subparagraph (b) of this paragraph 2), as may be declared in respect of their holdings by the Board of Directors from time to time out of assets or funds of the Company legally available therefor.

(b) If dividends or other distributions made with respect to the Class A Stock or Common Stock are payable in stock of the Company other than Preferred Stock (or in securities, including Preferred Stock, convertible into or exchangeable for such stock), only shares of Class A Stock or securities convertible into or exchangeable for Class A Stock shall be distributed with respect to Class A Stock, and only shares of Common Stock or securities convertible into or exchangeable for shares of Common Stock shall be distributed with respect to Common Stock, and in any such case, the number of shares of Class A Stock distributed (or issuable upon conversion of or exchange for any other security distributed) with respect to each outstanding share of Class A Stock and the number of shares of Common Stock distributed (or issuable upon conversion of or exchange for any other security distributed) with respect to each outstanding share of Common Stock, shall be equal.



(c) In the event of any change by way of subdivision, combination or reclassification of any series of the Common Stock or Class A Stock, the shares of Common Stock and Class A Stock shall also be subdivided, combined or reclassified in like manner such that the number of shares of Class A Stock outstanding immediately following such subdivision, combination or reclassification shall bear the same relationship to the number of shares of Class A Stock outstanding immediately prior to such subdivision, combination or reclassification as the number of shares of Common Stock outstanding immediately following such subdivision, combination or reclassification bears to the number of shares of Common Stock outstanding immediately prior to such subdivision, combination or reclassification.

(3) Transfer. (a) No Class A Holder of record may transfer, and the Company and any Transfer Agent (as hereinafter defined) of the Company's stock shall not register the transfer of, any shares of Class A Stock, whether by sale, assignment, gift, devise, bequest, appointment or otherwise, except to a Permitted Transferee.

A Permitted Transferee shall mean with respect to each person from time to time shown as the record holder of shares of Class A Stock:

(i) In the case of a Class A Holder who is a natural person,

(A) Any Family Member of such Class A Holder;

(B) The trustee of any trust (including a voting trust) (1) of which such Class A Holder is a trustee, (2) in the income or corpus of which such Class A Holder has a vested or contingent interest or (3) which is principally for the benefit of such Class A Holder and/or one or more of his or her Permitted Transferees described in each subclause of this clause (i) other than this subclause (B), provided that any trust referred to in this subclause (3) may provide for a general or special power of appointment to such Class A Holder or to one or more of such Class A Holder's Family Members and may provide that trust assets may be used to pay taxes and other obligations of the trust or of the Estate of such Class A Holder or of the Estates of one or more of such Class A Holder's Family Members payable by reason of the death of such Class A Holder or any of such Class A Holder's Family Members;

(C) Any organization, contributions to which are deductible for federal income, estate or gift tax purposes, or any split-interest trust described in Section 4947 of the

Internal Revenue Code, as it may from time to time be amended (a "Charitable Organization"), provided that such Charitable Organization is or was established by a Class A Holder or one or more of a Class A Holder's Family Members;

(D) Any corporation or partnership that is a Controlled Affiliate of such Class A Holder or his or her Permitted Transferees determined under this clause (i) or is a Jointly Controlled Affiliate; provided that if, as and when such corporation or partnership no longer qualifies as a Permitted Transferee, all shares of Class A Stock then held by such corporation or partnership shall, upon the election of the Company given by written notice to such corporation or partnership, without further action, be converted into shares of Common Stock effective upon the date of the giving of such notice, and stock certificates formerly representing such shares of Class A Stock shall thereupon and thereafter be deemed to represent the like number of shares of Common Stock; and

(E) Any transferee by reason of testamentary disposition or under the laws of intestate succession as a result of the death of such Class A Holder or the Estate of such Class A Holder.

(ii) In the case of Cyril Wagner, Jr. ("Mr. Wagner") or Jack E. Brown ("Mr. Brown") or any Controlled Affiliate of either of such named natural persons or any Jointly Controlled Affiliate, either of such named natural persons or any Permitted Transferee of either of such named natural persons determined pursuant to clause (i) above.

(iii) In the case of a Class A Holder holding the shares of Class A Stock in question as trustee pursuant to a trust (other than a Charitable Organization), (A) any person transferring Class A Stock to such trustee of such trust and (B) any Permitted Transferee of any such transferor.

(iv) In the case of a Class A Holder that is a Charitable Organization holding record and beneficial ownership of the shares of Class A Stock in question, any other Class A Holder.

(v) In the case of a Class A Holder that is a corporation or partnership (other than a Charitable Organization) acquiring record and beneficial ownership of the shares of Class A Stock in question on July 31, 1990, (A) any stockholder of such corporation or partner in such partnership, and any stockholder in any such stockholder or partner, on July 31, 1990, (B) any person

transferring such shares of Class A Stock to such corporation or partnership and (C) any Permitted Transferee of any such stockholder, partner or person referred to in subclauses (A) and (B) of this clause (v), determined under clauses (i) and (ii) above.

(vi) In the case of a Class A Holder that is a corporation or partnership (other than a Charitable Organization or a corporation or partnership described in clause (v) above) holding record and beneficial ownership of the shares of Class A Stock in question, (A) any person transferring such shares of Class A Stock to such corporation or partnership and (B) any Permitted Transferee of any such transferor determined under clauses (i) and (ii) above.

(vii) In the case of a Class A Holder that is the personal representative of the Estate of a deceased Class A Holder, or that is the guardian of the Estate of a Class A Holder or that is the Estate of a bankrupt or insolvent Class A Holder, which holds record and beneficial ownership of the shares of Class A Stock in question, a Permitted Transferee of such deceased, bankrupt or insolvent Class A Holder as determined pursuant to clause (i), (ii), (iii), (iv), (v) or (vi) above, as the case may be.

(b) Notwithstanding anything to the contrary set forth herein, any Class A Holder may pledge such Class A Holder's shares of Class A Stock to a pledgee pursuant to a bona fide pledge of such shares as collateral security for indebtedness due to the pledgee, provided that such shares shall not be transferred to or registered in the name of the pledgee and shall remain subject to the provisions of this paragraph 3. In the event of foreclosure or other similar action by the pledgee, such pledged shares of Class A Stock may only be transferred to a Permitted Transferee of the pledgor or converted into shares of Common Stock as the pledgee may elect. Any such conversion shall be effected pursuant to the procedures set forth in paragraph (4) of this Section II.

(c) For purposes of this paragraph 3:

(i) "Controlled Affiliate" of a person means any other person controlled directly or indirectly by such person. For purposes of this definition, "control" when used with respect to any person means the power to direct the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

(ii) "Estate" of a deceased natural person or a natural person who has been adjudicated mentally incompetent by a court of competent jurisdiction means the estate of such person or any representative, executor, conservator, administrator or guardian of such estate.

(iii) "Family Member" of a natural person means the present or former spouse of such person or any person who becomes the spouse of such person, any lineal descendant of a grandparent of such person or any such spouse and any present or former spouse of any such lineal descendant or any person who becomes the spouse of any such lineal descendant. For purposes of this definition, the relationship of any person to another person that is derived by or through legal adoption shall be considered a natural relationship.

(iv) "Jointly Controlled Affiliate" means any person jointly controlled directly or indirectly by (A) Mr. Wagner and Mr. Brown or (B) two or more Permitted Transferees of Mr. Wagner and/or Mr. Brown. For purposes of this definition, "control" and "controlled" have the meanings set forth in the definition of "Controlled Affiliate" in clause (i) above.

(v) Each joint owner of shares of Class A Stock shall be considered a "Class A Holder" of such shares.

(vi) A minor for whom shares of Class A Stock are held pursuant to the Uniform Gifts to Minors Act or similar law shall be considered a Class A Holder of such shares.

(vii) Unless otherwise specified, the term "person" includes a natural person, corporation, partnership, unincorporated association, firm, joint venture, trustee or other entity and a personal representative or guardian of an Estate.

(viii) Without derogating from the election conferred upon the Company pursuant to subclause (D) of clause (a)(i) above, each reference to a corporation shall include any successor corporation resulting from merger or consolidation; and each reference to a partnership shall include any successor partnership resulting from the death, withdrawal or admission of a partner.

(d) Any transfer of shares of Class A Stock not permitted hereunder shall result in the conversion of the transferee's shares of Class A Stock into shares of Common Stock on a share for share basis, effective the date on which certificates representing such shares are presented for transfer on the books of the Company. Any such conversion shall be effected pursuant to the procedures set forth in paragraph (4) of this Section II. The Company may, in connection with preparing a list of stockholders entitled to vote at any meeting of stockholders, or as a condition to the transfer or the registration of shares of Class A Stock on the Company's books, or at any other time for any reasonable purpose consistent with this Article FOURTH, require the furnishing of such

affidavits or other proof as it deems necessary to establish that any person is the beneficial owner of shares of Class A Stock or is a Permitted Transferee.

(e) The Company shall note on the certificates representing the shares of Class A Stock restrictions on transfer and registration of transfer of shares of Class A Stock imposed by this paragraph 3.

(4) Conversion. (a) Each share of Class A Stock may at any time be converted into one fully paid and nonassessable share of Common Stock at the option of the holders thereof. Such right shall be exercised by the surrender of the certificate representing such share of Class A Stock to be converted to the Company at any time during normal business hours at the principal executive offices of the Company, or, if an agent for the registration of transfer of shares of Class A Stock is then duly appointed and acting (said agent being hereinafter called the "Transfer Agent"), then at the office of the Transfer Agent, accompanied by a written notice of the election by the holder thereof to convert and (if so required by the Company or the Transfer Agent) by instruments of transfer, in form satisfactory to the Company and to the Transfer Agent, duly executed by such holder or his duly authorized attorney, and transfer tax stamps or funds therefor, if required pursuant to subparagraph (e) below.

(b) As promptly as practicable after the surrender for conversion of a certificate representing shares of Class A Stock in the manner provided in subparagraph (a) above and the payment in cash of any amount required by the provisions of subparagraphs (a) and (e), the Company will deliver or cause to be delivered at the office of the Transfer Agent to or upon the written order of the holder of such certificate a certificate or certificates representing the number of full shares of Common Stock issuable upon such conversion, issued in such name or names as such holder may direct. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of the surrender of the certificate representing shares of Class A Stock and all rights of the holder of such shares as a holder of shares of Class A Stock shall cease at such time and the person or persons in whose name or names the certificate or certificates representing the shares of Common Stock are to be issued shall be treated for all purposes as having become the record holder or holders of such shares of Common Stock at such time; provided, however, that any such surrender and payment on any date when the stock transfer books of the Company shall be closed shall constitute the person or persons in whose name or names the certificate or certificates representing shares of Common Stock are to be issued as the record holder or holders thereof for all purposes immediately prior to the close of business on the next succeeding day on which such stock transfer books are open.

(c) No adjustments in respect of dividends shall be made upon the conversion of any share of Class A Stock; provided, however, that if a share shall be converted subsequent to the record date for the payment of a dividend or other distribution on shares of Class A Stock but prior to such payment, the registered holder of such shares at the close of business on such record date shall be entitled to receive the dividend or other distribution payable on such shares on the date set for payment of such dividend or other distribution, notwithstanding the conversion thereof or the Company's default in payment of the dividend due on such date.

(d) The Company will at all times reserve and keep available, solely for the purpose of issuance upon conversion of the outstanding shares of Class A Stock such number of shares of Common Stock as shall be issuable upon the conversion of all such outstanding shares, provided, that nothing contained herein shall be construed to preclude the Company from satisfying its obligations in respect of the conversion of the outstanding shares of Class A Stock by delivery of purchased shares of Common Stock that are held in the treasury of the Company. If any shares of Common Stock required to be reserved for purposes of conversion hereunder require registration with, or approval of, any governmental authority under any federal or state law before such shares of Common Stock may be issued upon conversion, the Company will cause such shares to be duly registered or approved, as the case may be. All shares of Common Stock that shall be issued upon conversion of shares of Class A Stock will, upon issue, be fully paid and nonassessable and not subject to any preemptive rights.

(e) The issuance of certificates for shares of Common Stock upon conversion of shares of Class A Stock shall be made without charge for any stamp or other similar tax in respect of such issuance; provided, however, that if any such certificate is to be issued in a name other than that of the holder of the shares of Class A Stock converted, the person or persons requesting the issuance thereof shall pay to the Company the amount of any tax that may be payable in respect of any transfer involved in such issuance or shall establish to the satisfaction of the Company that such tax has been paid.

(f) At any time while there are shares of Class A Stock issued and outstanding, the Board of Directors of the Company may, in its sole discretion, by a unanimous vote of the Directors then in office, convert all outstanding shares of Class A Stock into Common Stock on a share-for-share basis. Notice of such conversion of Class A Stock specifying the date fixed for said conversion shall be mailed, postage prepaid, at least 20 days but not more than 60 days prior to said conversion date to the holders of record of the Class A Stock at their respective addresses as the same shall appear on the books of the Company. Following the expiration of such notice period, each outstanding share of Class A Stock shall be deemed to be a share of Common Stock for all purposes, and stock certificates

formerly representing outstanding shares of Class A Stock shall thereupon and thereafter be deemed to represent the like number of shares of Common Stock.

(g) On December 31, 2003, each share of Class A Stock issued and outstanding shall be automatically converted into Common Stock on a share for share basis. Upon such conversion, each share of Class A Stock shall be deemed to be a share of Common Stock for all purposes and stock certificates formerly representing outstanding shares of Class A Stock shall thereupon and thereafter be deemed to represent the like number of shares of Common Stock.

SECTION III.  
PROVISIONS APPLICABLE TO ALL CLASSES OF STOCK

(1) Liquidation Rights. In the event of any dissolution, liquidation or winding up of the affairs of the Company, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Company, the holders of each series of Preferred Stock that ranks senior to the Class A Stock or Common Stock upon dissolution, liquidation or winding up of the affairs of the Company shall be entitled to receive, out of the net assets of the Company, an amount for each share equal to the preferential amount to which they are entitled, and then the holders of Class A Stock, Common Stock and any series of Preferred Stock entitled to participate shall be entitled to share in the remaining net assets of the Company. In any such case, such that an equal amount of net assets shall be allocated to each share of Common Stock and Class A Stock. A merger or consolidation of the Company with or into any other company or a sale or conveyance of all or any part of the assets of the Company (which shall not in fact result in the liquidation of the Company and the distribution of assets to stockholders) shall not be deemed to be a voluntary or involuntary liquidation or dissolution or winding up of the Company within the meaning of this paragraph 1.

(2) Stockholder Action by Written Consent. Any action requiring or which may require the vote of stockholders of the Company at any annual or special meeting, may be taken without a meeting, without prior notice and without a vote, if a consent or consents, in writing, setting forth the action to be taken, shall be signed by the holders of a designated proportion, not less than a majority, of the voting power of the shares, or of the shares of any particular class, entitled to vote thereon or to take such action, as may be provided in this Certificate of Incorporation, or their duly authorized attorneys. The Secretary shall file such consent or consents, or certify the tabulation of such consents, and file such certificate, with the minutes of the meetings of the stockholders. Any consent or consents which become effective as provided herein shall have the same force and effect as a vote of stockholders at a meeting duly held, and may be stated as such in any certificate or document filed under the Delaware General Corporation Law.