

03-15-2002



102018214

ORDINATION COVER SHEET



Commissioner of Patent and Trademarks  
Box Assignments  
Washington, D.C. 20231

3.7.02

**Subject:** *Recording Certificate of Amalgamation*  
*Our Ref: 1028-589*

Dear Sir or Madam:

Attached for recording against 7 U.S. Applications and/or Registrations identified in Schedule A attached hereto is a **Certificate of Amalgamation** which was executed October 1, 2000.

From: **Hummingbird Ltd.**  
**1 Sparks Avenue**  
**North York, Ontario**  
**M2H 2W1 CANADA**

and

**3137163 Canada Inc.**  
**1 Sparks Avenue**  
**North York, Ontario**  
**M2H 2W1 CANADA**

To: **Hummingbird Ltd.**  
**1 Sparks Avenue**  
**North York, Ontario**  
**M2H 2W1 CANADA**

A check in the amount of **\$190.00** for recording against 7 applications and/or registrations is enclosed. In addition, the Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in connection with this application by this firm) to our Account No. 14-1140.

Please address all correspondence regarding this document to:

**Duane M. Byers**  
**Nixon & Vanderhye PC**  
**1100 North Glebe Road - Eighth Floor**  
**Arlington, Virginia 22201**  
**Tel: (703) 816-4009**

03/14/2002 GT0N11 00000106 75856450  
01 FC:481 40.00 OP  
02 FC:482 150.00 OP


**TRADEMARK**  
**REEL: 002461 FRAME: 0642**

608884

To the best of my knowledge and belief, the attached document is true and correct and any attached copy is a true copy of the original document.

Respectfully submitted,

Date: March 7, 2002

  
\_\_\_\_\_  
Duane M. Byers

Total number of pages and attachments [ 33 pages and one check ]

Enclosure: Appointment of Domestic Representative (7)

## Schedule A

<b>Trademark</b>	<b>Application/ Registration No.</b>
E-CLIP	75/856,450
EXCEED	75/664,366
GENIO METALINK	75/877,175
HOSTEXPLORER (Design)	75/159,976
HUMMINGBIRD	2,502,693
HUMMINGBIRD (Logo)	75/860,645
XWEB	75/405,538

608887

**TRADEMARK**  
**REEL: 002461 FRAME: 0644**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.: 75/856,450  
Mark: E-CLIP

In re Trademark Application of

Hummingbird Ltd.

Mark: E-CLIP

Filed: November 23, 1999

Our Atty. Ref.: 1028-541



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**APPOINTMENT OF DOMESTIC REPRESENTATIVE**

Duane M. Byers and Nixon & Vanderhye P.C., whose postal address is 1100 North Glebe Road, Suite 800, Arlington, Virginia 22201, United States of America, is designated as applicant's representative on whom notices or process in proceedings affecting the mark may be served.

Please address all future communications to:

Duane M. Byers  
Nixon & Vanderhye P.C.  
1100 North Glebe Road, Suite 800  
Arlington, Virginia 22201-4714

Date: February 25, 2002

Respectfully submitted,

HUMMINGBIRD LTD.

Signature:

Printed name: Eric Notkin

Corporate title: Director, Legal Services

**Appointed firm:**  
**Nixon & Vanderhye P.C.**  
**1100 North Glebe Road, Suite 800**  
**Arlington, VA 22201-4714**  
**Telephone: (703) 816-4000**  
**Facsimile: (703) 816-4100**



Industry Canada Industrie Canada

Canada Business Corporations Act Loi canadienne sur les sociétés par actions

I HEREBY CERTIFY THAT THE ATTACHED IS A TRUE COPY OF THE DOCUMENT MAINTAINED IN THE RECORDS OF THE DIRECTOR.

JE CERTIFIE, PAR LES PRÉSENTES, QUE LE DOCUMENT CI-JOINT EST UNE COPIE EXACTE D'UN DOCUMENT CONTENU DANS LES LIVRES TENUS PAR LE DIRECTEUR.

Deputy Director - Directeur adjoint

Date



Canada

**Certificate  
of Amalgamation**

**Canada Business  
Corporations Act**

**Certificat  
de fusion**

**Loi canadienne sur  
les sociétés par actions**

Hummingbird Ltd.

381739-3

\_\_\_\_\_  
Name of corporation-Dénomination de la société

\_\_\_\_\_  
Corporation number-Numéro de la société

I hereby certify that the above-named corporation resulted from an amalgamation, under section 185 of the *Canada Business Corporations Act*, of the corporations set out in the attached articles of amalgamation.

Je certifie que la société susmentionnée est issue d'une fusion, en vertu de l'article 185 de la *Loi canadienne sur les sociétés par actions*, des sociétés dont les dénominations apparaissent dans les statuts de fusion ci-joints.



Director - Directeur

October 1, 2000 / le 1 octobre 2000

Date of Amalgamation - Date de fusion

1 - Name of amalgamated corporation  
 Hummingbird Ltd. Dénomination de la société issue de la fusion

2 - The place in Canada where the registered office is to be situated  
 City of Toronto in the Province of Ontario Lieu au Canada où doit être situé le siège social

3 - The classes and any maximum number of shares that the corporation is authorized to issue  
 The annexed Schedule 1 is incorporated in this form. Catégories et tout nombre maximal d'actions que la société est autorisée à émettre

4 - Restrictions, if any, on share transfers  
 None Restrictions sur le transfert des actions, s'il y a lieu

5 - Number (or minimum and maximum number) of directors  
 A minimum of 3 and a maximum of 15 directors. Nombre (ou nombre minimal et maximal) d'administrateurs

6 - Restrictions, if any, on business the corporation may carry on  
 There are no restrictions on the business the Corporation may carry on or on the powers the Corporation may exercise. Limites imposées à l'activité commerciale de la société, s'il y a lieu

7 - Other provisions, if any  
 N/A Autres dispositions, s'il y a lieu

8 - The amalgamation has been approved pursuant to that section or subsection of the Act which is indicated as follows:  
 8 - La fusion a été approuvée en accord avec l'article ou le paragraphe de la Loi indiqué ci-après.

183  
 184(1)  
 184(2)

Name of the amalgamating corporations Dénomination des sociétés fusionnantes	Corporation No. N° de la société	Signature	Date	Title Titre
Hummingbird Ltd.	366769-3	<i>[Signature]</i>	Sept. 28, 2000	Director
3137163 Canada Inc.	3137163	<i>[Signature]</i>	Sept. 28, 2000	Director

FOR DEPARTMENT USE ONLY - À L'USAGE DU MINISTÈRE SEULEMENT  
 Corporation No. - N° de la société **381739-3** Filed - Déposée **001 - 2 2000**

SCHEDULE 1 TO THE  
ARTICLES OF AMALGAMATION OF

Hummingbird Ltd.

The classes and any maximum number of shares that the corporation is authorized to issue is as follows:

- (a) an unlimited number of Common Shares having the rights privileges, restrictions and conditions set out in Schedule "A" hereto; and
  
- (b) an unlimited number of Preferred Shares issuable in series having the rights, privileges, restrictions and conditions set out in Schedule "B" hereto, the first series of which is 12,500 Redeemable Retractable Preferred Shares Series A having the rights, privileges, restrictions and conditions set out in Schedule "C" hereto and the second series of which is Redeemable Retractable Preferred Shares Series B having the authorized number, rights, privileges, restrictions and conditions set out in Schedule "D" hereto.



Schedule "A"

Common Shares shall entitle the holders thereof to one (1) vote for each Common Share held at all meetings of shareholders except meetings at which only holders of a specified class of shares other than Common Shares are entitled to vote and, subject to the prior rights of the holders of the preferred shares, to receive (1) any dividend declared by the Corporation; and (2) the remaining property of the Corporation on dissolution.

SCHEDULE "B"

The Preferred Shares shall have attached thereto the following rights, privileges, restrictions and conditions:

(1) Directors' Right to Issue in One or More Series

The Preferred Shares may at any time or from time to time be issued in one or more series. Before any shares of a particular series are issued the Board of Directors of the Corporation shall determine the number of shares that will form such series and shall, subject to the limitations set out in these Articles, by resolution fix the designation, rights, privileges, restrictions and conditions to be attached to the Preferred Shares of such series, including, but without in any way limiting or restricting the generality of the foregoing, the rate, amount or method of calculation of dividends thereon (which rate, amount or method of calculation may be subject to changes or adjustments), the time and place of payment of dividends, the consideration and the terms and conditions of any purchase for cancellation, retraction or redemption thereof, conversion rights (if any), the voting rights attached thereto, and the terms and conditions of any share purchase plan or sinking fund, the whole subject to the filing with the Director (as defined in the Canada Business Corporations Act) of Articles of Amendment containing a description of such series including the rights, privileges, restrictions and conditions fixed by the Board of Directors.

(2) Ranking of Preferred Shares

The Preferred Shares of each series shall rank on a parity with the Preferred Shares of every other series with respect to accumulated dividends and return of capital, and shall be entitled to a preference over the Common Shares and Class A Shares of the Corporation and over any other shares ranking junior to the Preferred Shares with respect to priority in payment of dividends and in the distribution of assets in the event of the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any other distribution of the assets of the Corporation among its shareholders for the purpose of winding-up its affairs. When any dividends or amounts payable on a return of capital are not

in full, the Preferred Shares of all series shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and in respect of any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full; provided, however, that in the event of there being insufficient assets to satisfy in full all such claims as aforesaid, the claims of the holders of the Preferred Shares with respect to repayment of capital shall first be paid and satisfied and any assets remaining thereafter shall be applied towards the payment and satisfaction of claims in respect of dividends. The Preferred Shares of any series may also be given such other preferences not inconsistent with paragraphs (1) to (5) hereof over the Common Shares and Class A Shares of the Corporation and over any other shares ranking junior to the Preferred Shares as may be determined in the case of such series of Preferred Shares.

(3) Voting Rights

Except as hereinafter referred to or as required by law or in accordance with any voting rights which may from time to time be attached to any series of Preferred Shares, the holders of the Preferred Shares as a class shall not be entitled as such to receive notice of, to attend or to vote at any meeting of the shareholders of the Corporation.

(4) Amendment with Approval of Holders of Preferred Shares

The rights, privileges, restrictions and conditions attaching to the Preferred Shares as a class may be added to, changed or removed but only with the approval of holders of Preferred Shares given as hereinafter specified.

(5) Approval of Holders of Preferred Shares

The approval of the holders of Preferred Shares to add to, change or remove any right, privilege, restriction or condition attaching to the Preferred Shares as a class or of any other matters requiring the consent of the holders of the Preferred Shares may be given in such manner as may then be required by law, subject to a minimum requirement that such approval be given by resolution signed by all the holders of Preferred Shares or passed by the affirmative vote of at least 2/3 of the votes cast at a meeting of the holders of the Preferred Shares duly called for that purpose.

The formalities to be observed with respect to the giving of notice of any such meeting or any adjourned meeting and the conduct thereof shall be those from time to time prescribed by the by-laws of the Corporation with respect to meetings of shareholders, or if not so prescribed, as required by the Canada Business Corporations Act as in force at the time of the meeting. On every poll taken at every meeting of holders of Preferred Shares as a class, or at any joint meeting of the holders of two or more series of Preferred Shares, each holder of Preferred Shares entitled to vote thereat shall have one vote in respect of each \$1.00 of the issue price of each Preferred Share held.

SCHEDULE "C"  
SERIES A ATTRIBUTES

Number and Designation of  
and Rights, Privileges, Restrictions  
and Conditions Attaching to the  
Series A Preferred Shares

The first series of Preferred Shares of the Corporation shall consist of 12,500 Preferred Shares which shall be designated as \$36.(U.S.) Redeemable Retractable Preferred Shares Series A (hereinafter referred to as the "Series A Shares") and which, in addition to the rights, privileges, restrictions and conditions attached to the Preferred Shares as a class, shall have attached thereto the following rights, privileges, restrictions and conditions:

1. Consideration for Issue

The consideration for the issue of each Series A Preferred Share shall be \$36.(U.S.).

2. Dividends

2.1 Payment of Dividends

The holders of the Series A Shares shall be entitled to receive, and the Corporation shall pay thereon, as and when declared by the directors of the Corporation, out of moneys of the Corporation properly applicable to the payment of dividends, a non-cumulative preferential cash dividend of \$0.18 (U.S.) per share per month payable in lawful money of the United States of America on the last day of each month (the "Dividend Payment Date"). In respect of a month in which dividends are being paid then in the case of any Series A Shares outstanding for less than such full month the amount of such dividend for such shares shall be paid on the basis of the actual number of days elapsed in such month with the day of payment being excluded from the calculation of the actual number of days so elapsed. After the full dividend on the Series A Shares has been provided for in any month, the directors may in their discretion declare and pay dividends on the common shares.

2.2 Method of Payment

Cheques payable in lawful money of the United States of America at par at any branch in Canada or in the United States of the Corporation's bankers for the time being shall be issued in respect of the dividends on the Series A Shares (less any tax required to be withheld by the Corporation). The mailing from the Corporation's registered office on or before

Dividend Payment Date of such a cheque to a holder of Series Shares shall be deemed to be payment of the dividends represented thereby and payable on such Dividend Payment Date unless the cheque is not paid upon presentation. Dividends which are represented by a cheque which has not been presented to the Corporation's bankers for payment or that otherwise remain unclaimed for a period of 6 years from the date on which they were declared to be payable shall be forfeited to the Corporation.

### 2.3 Non-Cumulative Preferential Dividends

No dividends shall at any time be declared unpaid on or set apart for payment on the Common Shares of the Corporation, or for any other shares of any other class of the Corporation ranking as to capital junior to the Series A Shares, in any month unless at the date of such declaration or payment or setting apart for payment the preferential dividend on the Class A Shares for such month shall have been declared and paid or set apart for payment. The holders of Series A Shares shall not be entitled to any dividends other than or in excess of the non-cumulative preferential cash dividends herein provided for.

### 3. Redemption

#### 3.1 Redemption by the Corporation

Subject to the provisions of this clause 3 hereof and to the rights, privileges, restrictions and conditions attaching to any shares of the Corporation ranking prior to the Series A Shares, the Corporation may, upon giving notice as hereinafter provided, redeem at any time the whole or any part of the then outstanding Series A Shares, on payment for each share to be redeemed of \$36.(U.S.) per Series A Share plus all dividends accrued thereon and unpaid (the whole constituting and being hereinafter referred to as the "Redemption Price").

#### 3.2 Method of Redemption

In any case of redemption of Series A Shares, the Corporation shall at least 30 days before the date specified for redemption send by prepaid mail or deliver to each person who at the date of mailing or delivery is a registered holder of Series A Shares to be redeemed a notice in writing of the intention of the Corporation to redeem such Series A Shares. Such notice shall be mailed or delivered to each holder of Series A Shares to be redeemed at the last address of such shareholder as it appears on the books of the Corporation, or in the event of the address of any such shareholder not so appearing, then to the address of such shareholder last known to the Corporation; provided that, accidental failure or omission to give such notice to one or more holders shall not affect the validity of such redemption, but upon such failure or omission being discovered notice shall be given forthwith to such holder

holders and shall have the same force and effect as if given at the time. Such notice shall set out the number of Series A Shares held by the person to whom it is addressed which are to be redeemed, the Redemption Price, the date specified for redemption, and the place or places within Canada or the United States at which holders of Series A Shares may present and surrender such shares for redemption. On and after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the registered holders of the Series A Shares to be redeemed the Redemption Price of such shares on presentation and surrender, at the registered office of the Corporation or any other place or places within Canada or the United States specified in such notice of redemption, of the certificate or certificates representing the Series A Shares called for redemption. Payment in respect of Series A Shares being redeemed shall be made by cheques payable to the holders thereof in lawful money of the United States of America at par at any branch in Canada or the United States of the Corporation's bankers for the time being. The Corporation shall have the right at any time after the mailing or delivery of notice of its intention to redeem Series A Shares to deposit the Redemption Price of the Series A Shares so called for redemption, or of such of the Series A Shares which are represented by certificates which have not at the date of such deposit been surrendered by the holders thereof in connection with such redemption, in a special account in any chartered bank or any trust company in Canada or the United States named in the redemption or in a subsequent notice to the holders of the shares in respect of which the deposit is made, to be paid without interest to or to the order of the respective holders of Series A Shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing such shares. Upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Series A Shares in respect of which such deposit shall have been made shall be deemed to be redeemed and the rights of the holders thereof shall be limited to receiving, without interest, the Redemption Price of such Series A Shares upon presentation and surrender of the certificate or certificates representing their Series A Shares being redeemed. Any interest allowed on any such deposit shall belong to the Corporation. From and after the date specified for redemption in any such notice of redemption, the Series A Shares called for redemption shall cease to be entitled to dividends or any other participation in the assets of the Corporation and the holders hereof shall not be entitled to exercise any of their other rights as shareholders in respect thereof unless payment of the Redemption Price shall not be made upon presentation and surrender of the share certificates in accordance with the foregoing provisions, in which case the rights of the holders shall remain unaffected. Redemption monies which are represented by a cheque which has not been presented to the Corporation's bankers for payment or that otherwise remain

...aimed (including monies held on deposit to a special account as provided for above) for a period of 6 years from the date specified for redemption shall be forfeited to the Corporation.

4. Retraction Privilege

4.1 Right to Require Retraction

Subject to the provisions of this clause 4, a holder of Class A Shares shall be entitled to require the Corporation to redeem after December 31, 1996 the whole or from time to time any part of the then outstanding Class A Shares registered in the name of such holder on the books of the Corporation.

4.2 Retraction Procedure

A holder of Class A Shares wishing to require the Corporation to redeem his Class A Shares shall tender to the Corporation at its registered office a share certificate representing the shares to be redeemed and a notice in writing specifying (i) that the registered holder desires to have such Class A Shares redeemed by the Corporation and (ii) the business day (the "redemption date") on which the holder desires to have the Corporation redeem such Class A Shares which shall be not less than 7 days after the day on which the notice is given to the Corporation. On receipt of such notice and share certificate the Corporation shall on the redemption date redeem such Class A shares by paying to such registered holder for each share to be redeemed the Redemption Price. Such payment shall be made by cheque payable at par at any branch in Canada or the United States of the Corporation's bankers for the time being. From and after such redemption the Class A Shares redeemed shall cease to be entitled to dividends or any other participation in the assets of the Corporation and the holders thereof shall not be entitled to exercise any of the other rights of shareholders in respect thereof.

4.3 Retraction Subject to Applicable Law

If the Corporation is not permitted, by insolvency provisions or other provisions of applicable law or the rights, privileges, restrictions and conditions attaching to any shares of the Corporation ranking prior to the Series A Shares, to redeem all of the Series A Shares duly tendered pursuant to the above retraction privilege, the Corporation shall redeem only the maximum number of Series A Shares which the directors of the Corporation determine the Corporation is then permitted to redeem. Such redemption will be made pro rata disregarding fractions of shares, from each holder of tendered Series A Shares according to the number of Series A Shares tendered for redemption by each such holder and the Corporation shall issue and deliver to each such holder a new share certificate, at the



se of the Corporation, representing the Series A Shares not  
em by the Corporation.

If the Corporation fails to redeem, because of insolvency provisions or other provisions of applicable law or the rights, privileges, restrictions and conditions attaching to any shares of the Corporation ranking prior to the Series A Shares, all of the Series A Shares duly tendered pursuant to the above retraction privilege, then the Corporation shall redeem on each Dividend Payment Date thereafter, from Series A Shares tendered by the holders thereof on or before the tenth day preceding such Dividend Payment Date for redemption, the lesser of (i) the number of Series A Shares so tendered, and (ii) the number of Series A Shares (selected pro rata, disregarding fractions of shares, from each holder of Series A Shares so tendered according to the number of Series A Shares so tendered by each such holder) which the directors of the Corporation determine the Corporation is then permitted to redeem. The Corporation shall be under no obligation to give any notice to the holders of Series A Shares in respect of the redemptions provided for in this paragraph.

If the directors of the Corporation have acted in good faith in making any of the determinations referred to above as to the number of Series A Shares which the Corporation is permitted at any time to redeem, the Corporation shall have no liability in the event that any such determination proves inaccurate.

5. Voting Rights

The holders of the Series A Shares shall not be entitled as such (except as specifically provided by law) to receive notice of, to attend or to vote at any meetings of the shareholders of the Corporation other than a meeting of holders of Series A Shares; provided that the holders of the Series A Shares are entitled to notice of meetings of shareholders called for the purpose of authorizing the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof under subsection 183(3) of the Business Corporations Act, 1982 (Ontario).

6. Liquidation, Dissolution or Winding Up

In the event of the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or in the event of any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the Series A Shares shall be entitled to receive from the assets of the Corporation a sum equal to \$36. (U.S.) per Series A Share held by them

ectively, plus all dividends accrued thereon and unpaid, whole before any amount shall be paid by the Corporation or any assets of the Corporation shall be distributed to holders of the Common Shares of the Corporation and any other shares of any class of the Corporation ranking as to capital junior to the Series A Shares. After payment to the holders of the Series A Shares of the amounts so payable to them, they shall not be entitled to share in any further distribution of the assets of the Corporation.

7. Interpretation

In the event that any date on which any dividend on the Series A Shares is payable by the Corporation, or on or by which any other action is required to be taken by the Corporation hereunder, is not a Business Day, then such dividend shall be payable, or such other action shall be required to be taken, on or by the next succeeding date that is a Business Day.

For the purpose of these share provisions:

- (a) "Business Day" means a day other than a Saturday, a Sunday or any other day that is treated as a statutory holiday in the jurisdiction in which the Corporation's registered office is located;
- (b) "junior share" means a share of the Corporation ranking junior to the Series A Shares with respect to the payment of dividends or the distribution of assets in the event of the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or in the event of any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs; and
- (c) "ranking as to capital" means ranking with respect to the distribution of assets in the event of a liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or in the event of any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs.

8. Amendment

The rights, privileges, restrictions and conditions attached to the Series A Shares may be added to, changed or removed by Articles of Amendment, but only with the prior approval of the holders of the Series A Shares given as hereinafter specified in addition to any vote or authorization required by law.

Approval of Holders

Any approval of the holders of the Series A Shares with respect to any and all matters referred to herein or of any other matters requiring the consent of the holders of the Series A Shares may be given in such manner as may then be required by law, subject to a minimum requirement that such approval be given by resolution signed by all the holders of outstanding Series A Shares or passed by the affirmative vote of at least two-thirds of the votes cast at a meeting of holders of Series A Shares duly called for that purpose. The formalities to be observed with respect to the giving of notice of any such meeting or any adjourned meeting and the conduct thereof shall be those from time to time prescribed by the by-laws of the Corporation with respect to meetings of shareholders, or if not so prescribed, as required by the Business Corporations Act, 1982 (Ontario) as in force at the time of the meeting. On every poll taken at every meeting of holders of Series A Shares, each holder of Series A Shares entitled to vote thereat shall have one vote in respect of each Series A Share held.

SERIES B ATTRIBUTES

Number and Designation of  
and Rights, Privileges, Restrictions  
and Conditions Attaching to the  
Series B Preferred Shares

The second series of Preferred Shares of the Corporation shall consist of 45,000 Preferred Shares which shall be designated as \$100 (CDN.) Redeemable Retractable Preferred Shares Series B (hereinafter referred to as the "Series B Shares") and which, in addition to the rights, privileges, restrictions and conditions attached to the Preferred Shares as a class, shall have attached thereto the following rights, privileges, restrictions and conditions:

1. Consideration for Issue

The consideration for the issue of each Series B Share shall be \$100 (CDN.).

2. Dividends

2.1 No dividends shall at any time be declared unpaid on or set apart for payment on the Common Shares of the Corporation, or for any other shares of any other class of the Corporation nor shall any other payments or distributions be made to or for the benefit of any shareholder of the Corporation or any affiliate thereof except as otherwise expressly permitted under Section 4.5 of a certain Stock Purchase Agreement dated March 12, 1993 by and among the Corporation, the purchasers of the Series B shares and certain other shareholders of the Corporation (the "Stock Purchase Agreement"), unless on or prior to the date of such declaration or payment or setting apart for payment or distribution, a proportional dividend or distribution on the Series B Shares shall have been declared and paid or set apart for payment. The holders of Series B Shares shall not be entitled to any dividends other than or in excess of the non-cumulative preferential cash dividends herein provided for.

2.2 Method of Payment

Cheques payable in lawful money of the United States of America at the then-prevailing exchange rate at any branch in Canada or in the United States of the Corporation's bankers or the time being shall be issued in respect of the dividends on the Series B Shares (less any tax required to be withheld by

ation). The mailing from the Corporation's  
ed office on or before the last day of any month during  
such dividend has been declared (the "Dividend Payment  
of such a cheque to a holder of Series B Shares shall be  
to be payment of the dividends represented thereby and  
payable on such Dividend Payment Date unless the cheque is not  
aid upon presentation. Dividends which are represented by a  
heque which has not been presented to the Corporation's  
ankers for payment or that otherwise remain unclaimed for a  
eriod of 6 years from the date on which they were declared to  
e payable shall be forfeited to the Corporation.

Redemption

.1 Optional Redemption

Subject to the provisions of Section 3.3 hereof, the  
orporation may, upon giving notice as hereinafter provided,  
edeem at any time the whole of the then outstanding Series B  
nares, on payment for each share to be redeemed of \$100 (CDN.)  
er Series B Share plus all dividends accrued thereon and  
npaid (the whole constituting and being hereinafter referred  
o as the "Redemption Price").

.2 Mandatory Redemption

Irrespective of the provisions of Section 3.1 hereof,  
e Corporation will, subject to the provisions of Section 3.3  
ereof, (a) redeem 15,000 Series B Shares from the holders  
ereof at a price per share equal to the Redemption Price on  
ach of March 1, 1997, March 1, 1998 and March 1, 1999 (each  
ch date being referred to hereinafter as a "mandatory  
edemption date"), and (b) redeem an equivalent proportion of  
e then outstanding Series B Shares at a per share price equal  
o the Redemption Price concurrently with or prior to any  
edemption of any portion or all of the \$36 (U.S.) Redeemable  
tractable Preferred Shares Series A (the "Series A Preferred  
ock").

.3 Method of Redemption

In any case of redemption of Series B Shares pursuant  
o this Section 3, the Corporation shall at least 30 days  
efore the date specified for redemption or the mandatory  
edemption date, as the case may be, send by prepaid mail or  
eliver to each person who at the date of mailing or delivery  
s a registered holder of Series B Shares to be redeemed a  
otice in writing of the intention of the Corporation to redeem  
ch Series B Shares. Such notice shall be mailed or delivered  
o each holder of Series B Shares to be redeemed at the last  
dress of such shareholder as it appears on the books of the  
orporation, or in the event of the address of any such

holder not so appearing, then to the address of such holder last known to the Corporation; provided that, accidental failure or omission to give such notice to one or more holders shall not affect the validity of such redemption, and upon such failure or omission being discovered notice shall be given forthwith to such holder or holders and shall have the same force and effect as if given in due time. Such notice shall set out the number of Series B Shares held by the person to whom it is addressed which are to be redeemed, the Redemption Price, the date specified for redemption or the mandatory redemption date, as the case may be, and the place or places within Canada or the United States at which holders of Series B Shares may present and surrender such shares for redemption. On and after the date so specified for redemption or the mandatory redemption date, as the case may be, the Corporation shall pay or cause to be paid to or to the order of the registered holders of the Series B Shares to be redeemed the Redemption Price of such shares on presentation and surrender, at the registered office of the Corporation or any other place or places within Canada or the United States specified in such notice of redemption, of the certificate or certificates representing the Series B Shares called for redemption. Payment in respect of Series B Shares being redeemed shall be made by cheques payable to the holders thereof in lawful money of the United States of America at the then-prevailing exchange rate at any branch in Canada or the United States of the Corporation's bankers for the time being. The Corporation shall have the right at any time after the mailing or delivery of notice of its intention to redeem Series B Shares to deposit the Redemption Price of the Series B Shares so called for redemption, or of such of the Series B Shares which are represented by certificates which have not at the date of such deposit been surrendered by the holders thereof in connection with such redemption, in a special account in any chartered bank or any trust company in Canada or the United States named in the redemption or in a subsequent notice to the holders of the shares in respect of which the deposit is made, to be paid without interest to or to the order of the respective holders of Series B Shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing such shares. Upon such deposit being made or upon the date specified for redemption in such notice or upon the mandatory redemption date, whichever is the latest, the Series B Shares in respect of which such deposit shall have been made shall be deemed to be redeemed and the rights of the holders thereof shall be limited to receiving, without interest, the Redemption Price of such Series B Shares upon presentation and surrender of the certificate or certificates representing their Series B Shares being redeemed. Any interest allowed on any such deposit shall belong to the Corporation. From and after the date specified

redemption in any such notice of redemption or the mandatory redemption date, as the case may be, the Series B Shares called for redemption shall cease to be entitled to dividends or any other participation in the assets of the Corporation and the holders thereof shall not be entitled to exercise any of their other rights hereunder unless payment of the Redemption Price shall not be made upon presentation and surrender of the share certificates in accordance with the foregoing provisions, in which case the rights of the holders shall remain unaffected. Redemption monies which are represented by a cheque which has not been presented to the Corporation's bankers for payment or that otherwise remain unclaimed (including monies held on deposit to a special account as provided for above) for a period of 6 years from the date specified for redemption or the mandatory redemption date, as the case may be, shall be forfeited to the Corporation.

In the event that any Series B Shares are not redeemed by the Corporation on the date of redemption hereunder (including as a result of the provisions of Section 4.2 hereof), the Redemption Price on such Series B Shares shall thereafter accrue interest until redemption at the per annum rate, during the twelve month period following the initial redemption date, equal to the base rate (the "Base Rate") announced from time to time by The First National Bank of Boston plus 1%, during the second twelve month period after the initial redemption date, equal to the Base Rate plus 2%, and during each succeeding twelve month period, equal to the Base Rate plus a percentage 1% greater than the increase over the Base Rate for the immediately preceding twelve month period.

#### 4. Retraction Privilege

##### 4.1 Right to Require Retraction

Subject to the provisions of this Section 4, a holder of Series B Shares shall be entitled to require the Corporation to redeem the whole or any part of the then outstanding Series B Shares registered in the name of such holder on the books of the Corporation upon the completion by the Corporation of a public offering of its capital stock effected pursuant to a Registration Statement filed with the United States Securities Exchange Commission or with the appropriate Canadian regulatory authority.

##### 4.2 Retraction Procedure

A holder of Series B Shares wishing to require the Corporation to redeem his Series B Shares shall tender to the Corporation at its registered office a share certificate representing the shares to be redeemed and a notice in writing specifying (i) that the registered holder desires to have such Series B Shares redeemed by the Corporation and (ii) the business day (the "redemption date") on which the holder desires to have the Corporation redeem such Series B Shares which shall be not less than 7 days after the day on which the

is given to the Corporation. On receipt of such notice share certificate the Corporation shall on the redemption date redeem such Series B shares by paying to such registered holder for each share to be redeemed the Redemption Price. Such payment shall be made by cheque payable in lawful money of the United States at the then-prevailing exchange rate at any branch in Canada or the United States of the Corporation's bankers for the time being. From and after such redemption the Series B Shares redeemed shall cease to be entitled to dividends or any other participation in the assets of the Corporation and the holders thereof shall not be entitled to exercise any of the other rights of shareholders in respect thereof.

In the event that any Series B Shares are not redeemed by the Corporation on the date of redemption hereunder (including as a result of the provisions of Section 3.3 hereof), the Redemption Price on such Series B Shares shall thereafter accrue interest until redemption at the per annum rate, during the twelve month period following the initial redemption date, equal to the Base Rate plus 1%, during the second twelve month period after the initial redemption date, equal to the Base Rate plus 2%, and, during each succeeding twelve month period, equal to the Base Rate plus a percentage 1% greater than the increase over the Base Rate for the immediately preceding twelve month period.

#### 4.3 Retraction Subject to Applicable Law

If the Corporation is not permitted, by insolvency provisions or other provisions of applicable law, to redeem all of the Series B Shares duly tendered pursuant to the above retraction privilege, the Corporation shall redeem only the maximum number of Series B Shares which the directors of the Corporation determine the Corporation is then permitted to redeem. Such redemption will be made pro rata disregarding fractions of shares, from each holder of tendered Series B Shares according to the number of Series B Shares tendered for redemption by each such holder and the Corporation shall issue and deliver to each such holder a new share certificate, at the expense of the Corporation, representing the Series B Shares not redeemed by the Corporation.

If the Corporation fails to redeem, because of insolvency provisions or other provisions of applicable law, all of the Series B Shares duly tendered pursuant to the above retraction privilege, then the Corporation shall redeem on each March 31, June 30, September 30 and December 31 thereafter, from Series B Shares tendered by the holders thereof on or before the tenth day preceding each such date for redemption, the lesser of (i) the number of Series B Shares so tendered, and (ii) the number of Series B Shares (selected pro rata, disregarding fractions of shares, from each holder of Series B Shares so tendered according to the number of Series B Shares



ered by each such holder) which the directors of the Corporation determine the Corporation is then permitted to redeem. The Corporation shall be under no obligation to give notice to the holders of Series B Shares in respect of the redemptions provided for in this paragraph.

If the directors of the Corporation have acted in good faith in making any of the determinations referred to above as to the number of Series B Shares which the Corporation is permitted at any time to redeem, the Corporation shall have no liability in the event that any such determination proves inaccurate.]

5. Voting Rights

The holders of the Series B Shares shall not be entitled as such (except as specifically provided herein or by applicable law) to receive notice of, to attend or to vote at any meetings of the shareholders of the Corporation other than a meeting of holders of Series B Shares; provided that the holders of the Series B Shares are entitled to notice of (a) meetings of shareholders called for the purpose of authorizing the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof under section 189 of the Canada Business Corporations Act, 1985 and (b) any event that might give use to the exercise of their retraction rights under Section 4 hereof, which such written notice shall be delivered promptly to each of the holders of Series B shares and in any event in sufficient time to permit them to exercise their retraction rights.

6. Liquidation, Dissolution or Winding Up

(a) In the event of the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or in the event of any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the Series B Shares shall be entitled to receive from the assets of the Corporation a sum equal to \$100 (CDN.) per Series B Share held by them respectively, plus all dividends accrued thereon and unpaid, the whole before any amount shall be paid by the Corporation or any assets of the Corporation shall be distributed to holders of the Common Shares of the Corporation or any other shares of any class of the Corporation (other than the holders of the Series A Preferred Stock, which is pari passu with the Series B Shares with respect to liquidating distributions. If upon any liquidation, dissolution or winding up of the Corporation, the amounts payable with respect to the Series B Shares are not paid in full, the holders of the Series B Shares shall share ratably in any distribution of

in proportion to the full respective preferential rights to which they are entitled before any payment or distribution to any other shareholders of the Corporation and the holders of Series B Shares shall not be entitled to any further right or claim to any of the remaining assets of the Corporation.

(b) For purposes of this Section 6, the merger or consolidation of the Corporation with or into any other corporation (other than a wholly-owned subsidiary), the merger or consolidation of any other corporation (other than a wholly-owned subsidiary) with or into the Corporation, or the sale, lease, exchange or other transfer of all or any substantial portion of the assets of the Corporation (other than to a wholly-owned subsidiary), shall be deemed to be a dissolution, liquidation or winding up of the affairs of the Corporation.

(c) Written notice of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, stating the payment date or dates when, and the place or places where, the amounts distributable to holders of Series B Shares in such circumstances shall be payable, shall be given by hand delivery, by courier, by standard form of telecommunication or by first class mail (postage prepaid), delivered, sent or mailed, as the case may be, not less than twenty (20) days prior to any payment date stated therein, to the holders of Series B Shares, at the address shown on the books of the Corporation or any transfer agent for the Series B Shares.

7. Interpretation

In the event that any date on which any dividend on the Series B Shares is payable by the Corporation, or on or by which any other action is required to be taken by the Corporation hereunder, is not a Business Day, then such dividend shall be payable, or such other action shall be required to be taken, on or by the next succeeding date that is a Business Day. For purpose of these share provisions; "Business Day" means a day other than a Saturday, a Sunday or any other day that is treated as a statutory holiday in the jurisdiction in which the Corporation's registered office is located.

8. Limitations

(a) Subject to Section 6 hereof with respect to liquidating distributions and Section 2.1 hereof, so long as any Series B Shares are outstanding, the approval of the holders of the Series B Shares, given as hereinafter specified, shall be required prior to the Corporation's making of any

ents or distributions on, or purchases or redemptions of,  
capital stock of the Corporation.

(b) So long as any Series B Shares are outstanding, the approval of the holders of the Series B Shares, given as hereinafter specified, shall be required prior to the designation, creation and/or issuance of any class or series of capital stock ranking senior to or pari passu with the Series B Shares with respect to rights to receive dividends, mandatory redemption payments or distributions upon liquidation, dissolution or winding up of the Corporation.

(c) So long as any Series B Shares are outstanding, the approval of the holders of the Series B Shares, given as hereinafter specified, shall be required prior to the merger or consolidation of the Corporation with or into any other corporation (other than a wholly-owned subsidiary), the merger or consolidation of any other corporation (other than a wholly-owned subsidiary) with or into the Corporation, or the sale, lease, exchange or other transfer of all or any substantial portion of the assets of the Corporation (other than to a wholly-owned subsidiary).

(d) The rights, privileges, restrictions and conditions attached to the Series B Shares may be added to, changed or removed by Articles of Amendment, but only with the prior approval of the holders of the Series B Shares, given as hereinafter specified, in addition to any vote or authorization required by law.

9. Approval of Holders

Any approval of the holders of the Series B Shares with respect to any and all matters referred to herein or of any other matters requiring the consent of the holders of the Series B Shares may be given in such manner as may then be required by law, subject to a minimum requirement that such approval be given by resolution signed by all the holders of outstanding Series B Shares or passed by the affirmative vote of at least two-thirds of the votes cast at a meeting of holders of Series B Shares duly called for that purpose. The formalities to be observed with respect to the giving of notice of any such meeting or any adjourned meeting and the conduct thereof shall be those from time to time prescribed by the by-laws of the Corporation with respect to meetings of shareholders, or if not so prescribed, as required by the Canada Business Corporations Act, 1985, as in force at the time of the meeting. On every poll taken at every meeting of holders of Series B Shares, each holder of Series B Shares entitled to vote thereat shall have one vote in respect of each Series B Share held.

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RECORDED: 03/07/2002

REEL: 002461 FRAME: 0668