



03-21-2002



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Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002)

RECORD TRADE

PARTMENT OF COMMERCE Patent and Trademark Office

Tab settings

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

<p>1. Name of conveying party(ies): <u>3-15-02</u> <u>Mid-Florida Mining Company</u></p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State <u>Florida</u> <input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies) Name: <u>MFM Industries, Inc.</u> Internal Address: _____ Address: _____</p> <p>Street Address: <u>3951 West Highway 329</u> City: <u>Reddick</u> State: <u>FL</u> Zip: <u>32686</u></p> <p><input type="checkbox"/> Individual(s) citizenship _____ <input type="checkbox"/> Association _____ <input type="checkbox"/> General Partnership _____ <input type="checkbox"/> Limited Partnership _____ <input checked="" type="checkbox"/> Corporation-State <u>Florida</u> <input type="checkbox"/> Other _____</p> <p><small>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</small></p>
<p>3. Nature of conveyance: <input type="checkbox"/> Assignment <input checked="" type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> <p>Execution Date: <u>December 31, 1996</u></p>	<p>4. Application number(s) or registration number(s): A. Trademark Application No.(s) B. Trademark Registration No.(s) <u>See attached</u></p> <p>Additional number(s) attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>Deborah L. Kramm, Esq.</u> Internal Address: <u>Holland & Knight LLP</u> _____ _____ Street Address: <u>2099 Pennsylvania Avenue,</u> <u>NW Suite 100</u> City: <u>Washington</u> State: <u>DC</u> Zip: <u>20006</u></p>	<p>6. Total number of applications and registrations involved: 16</p> <p>7. Total fee (37 CFR 3.41).....\$ <u>415.00</u> <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number: _____ (Attach duplicate copy of this page if paying by deposit account)</p>

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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.

Deborah L. Kramm 3/15/02
Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and document: 39

03/20/2002 LNUELLER 00000224 2126224
01 FC:481 40.00 OP
02 FC:482 375.00 OP

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

TRADEMARK
REEL: 002466 FRAME: 0372

Trademark	Registration No.
KITTY WHITE SCOOP	2,126,224
KITTY WHITE AND DESIGN	1,609,995
KITTY-WHITE	1,218,531
KITTY-WHITE (Supp. Register)	0,934,233
DIAMOND-SORB	2,063,584
DURASORB	1,136,546
CEDAR FRESH	1,859,249
SUPER SCENTED AND DESIGN	1,655,707
SUPER SCENTED	1,522,024
MISCELLANEOUS DESIGN	1,615,100
MISCELLANEOUS DESIGN	1,535,627
LITTER GUARD	1,359,550
LITTER GUARD (Supp. Register)	0,957,498
MIGHTY CAT	1,434,140
TERRA-SEAL AND DESIGN	1,266,742
CINNA-MINT	1,107,470

WAS1 #1066516 v1

EFFECTIVE DATE
12/31/96

FILED
96 DEC 27 PM 2:31
SECRETARY OF STATE
TALLAHASSEE FLORIDA

ARTICLES OF MERGER

The undersigned officers of MFM INDUSTRIES, INC., a Florida corporation, and MID-FLORIDA MINING COMPANY, a Florida corporation, pursuant to Section 607.1105 of the Florida Business Corporation Act, hereby execute these Articles of Merger and state as follows:

ARTICLE I.

NAMES; SURVIVING CORPORATION

The names of the corporations that are parties to the merger are MID-FLORIDA MINING COMPANY, a Florida corporation organized on January 25, 1984, under Charter Number G80455, and MFM INDUSTRIES, INC., a Florida corporation organized on January 25, 1984 under Charter Number G80454. MID-FLORIDA MINING COMPANY, Charter Number G80455, shall survive the merger as the Surviving Corporation.

ARTICLE II.

ARTICLES OF INCORPORATION

The articles of incorporation of MID-FLORIDA MINING COMPANY shall continue to be the articles of incorporation of the Surviving Corporation, except that Articles I and IV of the articles of incorporation shall be deleted, upon the Effective Date of the merger, and the following Articles shall be inserted in their place:

"ARTICLE I. NAME

The name of the Corporation is: MFM INDUSTRIES, INC."

* * * * *

"ARTICLE IV. AUTHORIZED SHARES

The total number of shares of all classes of stock which the corporation shall have authority to issue is 25,000 shares of Series A Preferred Stock, par value \$1.00 per share (herein called the "Series A Preferred Stock"), 100,000 shares of Series B Preferred Stock, par value \$1.00 per share (herein called the "Series B Preferred Stock"), and 1,000,000 shares of Common Stock, par value \$.01 per share (herein called the "Common Stock"). The consideration to be paid for each share shall be fixed by the board of directors and may be paid in whole or in part in cash or other property, tangible or intangible, or in labor or services actually performed for the corporation, with a value, in the judgment of the directors, equivalent to or greater than the full par value of the shares.

The following is a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereon in respect to the classes of stock of the corporation. All cross-references in each part of this Article refer to other paragraphs in this Article unless otherwise indicated.

SERIES A PREFERRED STOCK.

1. Dividends.

1A. General Dividend Obligation. When and as declared by the board of directors of the corporation, the corporation shall pay to the holders of the Series A Preferred Stock, out of the Retained Earnings of the corporation, dividends at the times and in the amounts provided for in this paragraph 1, and the Series A Preferred Stock shall be entitled to the dividend preferences set forth in paragraph 1E of this Article.

1B. Calculation of Dividends. Dividends on each share of Series A Preferred Stock (each of which is referred to in this subdivision as a "Share"), as of November 1, 1992, shall be noncumulative and, if declared by the board of directors of the corporation, shall be calculated on a daily basis at the rate and in the manner prescribed herein from and including the date of issuance of such Share to and including the date on which the Redemption Price of such Share shall have been paid, provided that Retained Earnings of the corporation are available for payment of dividends. For purposes of this paragraph 1B, the date of issuance of a Share shall not change as a result of a subsequent issuance of additional certificates evidencing the same Share (whether by reason of transfer of the Share or for any other reason).

1C. Dividend Rate. If declared by the board of directors of the corporation, dividends shall be calculated on each Share at the rate of ten percent (10%) per annum of the Purchase Price thereof from November 1, 1992, and shall be paid on the date specified by the board of directors. To the extent not paid, all dividends which have been declared on each Share then outstanding during the period shall be added to the Liquidation Value of such Share and shall remain a part thereof until (but only until) such dividends are paid. Any dividends payable hereunder may be paid in cash or, at the election of the Board of Directors, in additional shares of Series A Preferred Stock.

1D. Distribution of Partial Dividend Payments. If at any time the corporation shall pay less than the total amount of dividends then declared on the Series A Preferred Stock, such lesser payment shall be distributed among the holders of the Series A Preferred Stock so that an equal amount shall be paid with respect to each outstanding Share.

1E. Priority. The Series A Preferred Stock shall rank senior to the Junior Securities in respect of dividend payments to the extent provided in this paragraph 1E. So long as any Series A Preferred Stock shall remain outstanding, no Junior Securities shall be acquired or redeemed by the corporation, nor shall any dividend be declared or paid, nor shall any distribution be made, upon any Junior Securities by the corporation; provided that, so long as no Event of Noncompliance or Potential Event of Noncompliance shall have occurred and be continuing, the corporation may pay dividends and make distributions on Junior Securities.

2. Liquidation. Upon any liquidation (complete or partial), voluntary dissolution or winding up of the corporation, whether voluntary or involuntary, the holders of the Series A Preferred Stock shall be entitled, before any distribution or payment is made upon any Junior Securities of the corporation, to be paid out of the assets of the corporation available for distribution to its shareholders (whether from capital surplus or earnings) an amount in cash equal to the aggregate Liquidation Value of all their Shares outstanding, and the holders of the Series A Preferred Stock shall not be entitled to any further payment. Upon any liquidation, voluntary dissolution or winding up of the corporation, after the holders of the Series A Preferred Stock shall have been paid in full the amounts to which they shall be entitled, the remaining assets of the corporation may be distributed to the holders of Junior Securities of the corporation. Written notice of such liquidation, dissolution or winding up, stating a payment date, the amount of the payment and the place where the amounts distributable shall be payable, shall be mailed by certified or registered mail, return receipt requested, not less than sixty days prior to the payment date stated therein, to each record

holder of any Share at the address for such record holder shown on the corporation's records. Neither the consolidation nor the merger of the corporation into or with any other corporation or corporations, nor the sale or transfer by this corporation of all or any part of its assets, nor the reduction of the capital stock of the corporation, shall be deemed to be liquidation, dissolution or winding up of the corporation with the meaning of any of the provisions of this paragraph 2.

3. Redemptions.

3A. Redemption Price. For each Share which is to be redeemed by the corporation at any time and for any reason in a redemption pursuant to this paragraph 3 (except as provided in paragraph 3D(ii) hereof), the corporation shall, on the Redemption Date, pay to the holder thereof (upon surrender by such holder at the corporation's principal office of the certificate representing such Share duly endorsed in blank or accompanied by an appropriate form of assignment) an amount (the "Redemption Price" for such Share) equal to the Liquidation Value of such Share; provided that nothing herein shall be construed to require any actual payment before such can be made pursuant to this paragraph 3, the provisions of any loan agreement made by the corporation with its lenders, or applicable law.

3B. Redeemed or Otherwise Acquired Shares Not to be Reissued. Any Shares redeemed pursuant to this paragraph 3 or otherwise acquired by the corporation in any manner whatsoever shall not under any circumstances be reissued, sold or transferred by the corporation.

3C. Scheduled Redemptions. Irrespective of any redemptions made pursuant to paragraph 3D or otherwise, the corporation shall provide for the redemption of the Series A Preferred stock pursuant to the following schedule:

<u>July 1,</u>	<u>Amount</u>
1994	\$206,700
1995	225,000
1996	225,000
1997	225,000
1998	225,000
1999	150,000

Such redemptions shall be made solely from the Retained Earnings of the corporation; provided that if on any Scheduled Redemption Date the Retained Earnings of the corporation are insufficient to redeem the entire number of Shares scheduled under this paragraph 3C to be redeemed on such date, the corporation shall redeem the maximum number of such Shares possible, based on Retained Earnings that are available for that purpose. Thereafter, any additional Retained Earnings becoming legally available for such purposes (as determined not later than the next Scheduled Redemption Date) shall be used by the corporation, not later than thirty (30) days after they are determined to be available for such purposes, to redeem the balance of the Shares scheduled to have been redeemed on any Scheduled Redemption Date but which shall not have been redeemed due to (a) lack of Retained Earnings, or (b) restrictions imposed on the corporation by its lenders in any loan documents.

3D. Optional Redemption. (i) The corporation may redeem, in addition to any other shares redeemed pursuant to this paragraph 3, at its sole election, Series A Preferred Stock, out of Retained Earnings and any other funds legally available for making redemptions, and by decision of the board of directors of the corporation, at the Redemption Price for the Shares.

(ii) The holders of the Shares may, at their sole election, tender all or part of the Shares for redemption by the corporation, and the corporation shall be obligated to redeem such tendered shares at Liquidation Value, if any one or more of the following events occurs:

- (a) more than 25% of the outstanding Common Stock of the corporation in the aggregate is transferred by the holders thereof;
- (b) the occurrence of an Event of Noncompliance under paragraph 5 hereof.

If on any Redemption Date under this paragraph 3D(ii) the Retained Earnings of the corporation are insufficient to redeem the entire number of Shares tendered by the holder on the date of tender, the corporation shall redeem the maximum number of shares possible, based on Retained Earnings that are available therefor. Thereafter, any additional Retained Earnings becoming legally available for such purposes (as determined not later than the next Scheduled Redemption Date) shall be used by the corporation, not later than thirty (30) days after they are determined to be legally available for such purposes, to reduce the balance of the Shares tendered but not redeemed.

3E. Notice of Redemption. Notice of any redemption of Series A Preferred Stock, specifying the time, date and place of redemption, the Redemption Price and the paragraph pursuant to which such redemption is being made, shall be mailed by certified or registered mail, return receipt requested, to each holder of record of Shares to be redeemed, at the address for such holder shown on the corporation's records, or, in the event of a redemption pursuant to paragraph 3D(ii) hereof, to the principal place of business of the corporation, not more than sixty nor less than thirty days prior to the date on which such redemption is to be made. The notice shall also specify the number of Shares and the certificate numbers thereof which are to be redeemed. With respect to redemptions made pursuant to paragraph 3D, upon mailing any such notice of redemption the corporation shall become obligated at the time of redemption specified therein to redeem all Shares therein specified. In case less than all the Shares represented by certificate are redeemed, a new certificate representing the unredeemed Shares shall be issued to the holder thereof without cost to such holder.

3F. Dividends After Redemption Date. No Share shall be entitled to any dividends declared after its Redemption Date unless the Redemption Price is not paid in full on the Redemption Date, and on such Redemption Date all rights of the holder of such Share as a shareholder of the corporation by reason of the ownership of such Share, shall cease, except the right to receive the Redemption Price of such Share upon presentation and surrender of the certificate representing such Share, and such Share shall not after such Redemption Date be deemed to be outstanding.

3G. Other Redemptions or Acquisitions. The corporation shall neither redeem nor otherwise acquire any Series A Preferred Stock except as expressly authorized in this Article.

3H. Declared Dividends Must be Paid Prior to Any Redemption. The corporation shall not redeem any Shares at anytime outstanding unless all dividends declared on the Series A Preferred Stock through the Redemption Date shall have been paid.

4. Voting Rights. The holders of the Shares shall not be entitled to vote for directors or upon any other matter, except as provided by law.

5. Events of Noncompliance.

5A. Definition. (i) An Event of Noncompliance shall be deemed to have occurred if:

- (a) the corporation, for any reason other than a lack of Retained Earnings or restrictions imposed by its lenders in any loan document, fails to pay the full amount of dividends then declared on the Shares but unpaid;
- (b) the corporation, for any reason other than a lack of Retained Earnings or restrictions imposed by its lenders in any loan document, fails to redeem on any Scheduled Redemption Date all of the Shares then scheduled to be redeemed and all of the Shares scheduled to have been redeemed on any previous Scheduled Redemption Date which have not been redeemed;
- (c) the corporation, for any reason other than a lack of Retained Earnings or restrictions imposed by its lenders in any loan document, fails to redeem on any date specified in any notice of redemption mailed pursuant to paragraph 3B all of the Shares specified in such notice to be redeemed on such date;
- (d) the corporation otherwise materially fails to perform or observe any other material covenant or agreement set forth in this Article IV, and the failure is not cured within 30 days after the corporation's receipt of written notice of the failure;
- (e) the corporation makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due; or any order, judgment or decree is entered adjudicating the corporation bankrupt or insolvent; or any order for relief with respect to the corporation is entered under the Federal Bankruptcy law; or the corporation petitions or applies to any tribunal for the appointment of a trustee, receiver or liquidator of the corporation, or of any substantial part of the assets of the corporation, or commences any proceedings relating to the corporation under any bankruptcy, reorganization, arrangement,

insolvency, readjustment or debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect; or any such petition or application is filed, or any such proceedings are commenced, against the corporation and the corporation by any act indicates its approval thereof, consent thereto or acquiescence therein or an order, judgment or decree is entered appointing any such trustee, receiver or liquidator, or approving the petition in any such proceedings, and such order, judgment or decree remains unstayed and in effect for more than sixty days; or any involuntary case is commenced under the Federal Bankruptcy law with respect to the corporation and is not dismissed within sixty days; or any order, judgment or decree is entered in any proceedings against the corporation decreeing the dissolution of the corporation and such order, judgment or decree remains unstayed and in effect for more than sixty days; or any order, judgment, or decree is entered in any proceeding against the corporation decreeing a split-up of the corporation and such order, judgment or decree remains unstayed and in effect for more than sixty days;

- (f) the corporation defaults in any payment of principal of or interest on any obligation for money borrowed or received (or any obligation under a conditional sale or other title retention agreement or any obligation issued or assumed as full or partial payment for property whether or not secured by purchase money mortgage or any obligation under notes payable or drafts accepted representing extensions of credit) beyond any period of grace provided with respect thereto, or defaults in the performance of any other agreement, term or condition contained in any agreement under which any such obligation is created (or if any other default under any such agreement shall occur and be continuing) if the effect of such default is to cause, or to permit the holder or holders of such obligation (or a trustee on behalf of such holder or holders) to

cause, such obligation to become due prior to its stated maturity; or

- (g) a final judgment in an amount in excess of One Hundred Thousand Dollars (\$100,000) is rendered against the corporation and, within sixty days after entry thereof, such judgment is not discharged or execution thereof stayed pending appeal, or within sixty days after the expiration of any such stay, such judgment is not discharged.

(ii) The existence or continuation of any Event of Noncompliance shall be irrespective of whether such event or the underlying facts shall have come about voluntarily or involuntarily or shall be beyond the corporation's control or shall have come about or been effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body or because the corporation cannot redeem any Shares or perform or observe any covenant or agreement in this Article.

(iii) The term "Potential Event of Noncompliance" means the occurrence of any event which with the passage of time or the giving of notice or both would become an Event of Noncompliance.

5B. Consequences of Certain Events of Noncompliance. (i) If any Event of Noncompliance shall exist, the holder of the Shares shall have the right to immediately tender its shares to the corporation for immediate redemption thereof at the Liquidation Value for each share, in accordance with the provisions of paragraph 3D(ii).

(ii) If any Event of Noncompliance shall exist, the holder of the Shares shall have, in addition to the rights expressly provided in this paragraph 5B, any other rights which such holder may have been afforded under the Purchase Agreement or under any other contract or agreement at any time and any other rights which such holder may have under applicable law.

6. Restrictions. (a) So long as any Series A Preferred Stock shall be outstanding, the corporation shall not, without the consent of the holders of a majority of the outstanding shares of Series A Preferred Stock, create any class or series of stock ranking, as to payment of dividends or as to liquidation preference, prior to, or equal to, the Series A Preferred Stock.

(b) So long as any Series A Preferred Stock shall remain outstanding, the corporation shall not, without the consent of the holders of a majority of the outstanding shares of Series A Preferred Stock, (i) amend, alter or repeal this Article, (ii) otherwise amend, alter or repeal the articles of incorporation or bylaws, or file any directors' resolutions pursuant to the law of the State of Florida, adversely affecting any of the powers, preferences and special rights of the holders of Series A Preferred Stock set forth in this Article, (iii) be a party to or enter into any agreement, other than customary limitations contained in loan documents, which would by its terms prohibit or in any way restrict the corporation from declaring or paying dividends on, or redeeming, the Series A Preferred Stock when required by this Article, or performing any other obligation to the holders of the Series A Preferred Stock imposed on the corporation by this Article, or redeeming the Series A Preferred Stock, or performing any other obligation to the holders of the Series A Preferred Stock imposed on the corporation by this Article.

(c) So long as (i) any Series A Preferred Stock shall be outstanding, and (ii) any payment due from the corporation to the holders of the Shares by way of dividend, payment of Redemption Price, or payment of any liquidation price, has not been paid, the corporation shall not make any payment of principal or interest due on notes payable or any other forms of indebtedness to any holder of Common Stock of the corporation or, except payment and interest due on indebtedness incurred in the ordinary course of business, to any Affiliate of any holder of Common Stock of the corporation.

7. Closing of Books. Except as provided in paragraph 3B of this Article or as required by applicable laws, the corporation will not close its books against the transfer of any Share.

8. Registration of Transfer. The corporation shall keep at its principal office (or such other place as the corporation may reasonably designate) a register for the registration of Shares. Upon the surrender of any certificate representing Series A Preferred Stock at such place, the corporation shall, at the request of the registered holder of such certificate, execute and deliver a new certificate or certificates in exchange therefor representing in the aggregate the number of Shares represented by the surrendered certificate (and the corporation forthwith shall cancel such surrendered certificate) subject to the requirements of applicable securities laws. Each such new certificate shall be registered in such name and shall represent such number of Shares as shall be requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate; and any dividends declared by the board of directors shall accrue to the Shares represented by such new certificate. The issuance of new

certificates shall be made without charge to the holders of the surrendered certificates for any issuance tax in respect thereof or other costs incurred by the corporation in connection with such issuance; provided that the corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the surrendered certificate.

9. Replacement. (i) Upon receipt of evidence reasonably satisfactory to the corporation (an affidavit of the registered holder, without bond, shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing one or more Shares and, in the case of any such loss, theft, or destruction, upon receipt of indemnity reasonably satisfactory to the corporation (provided that if the registered holder is the purchaser named in the Purchase Agreement, its own agreement of indemnity shall be satisfactory), or, in the case of any mutilation, upon surrender of such certificate, the corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Shares represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

(ii) The term "outstanding" when used in this Article with reference to Shares as of any particular time shall not include any shares represented by any certificate in lieu of which a new certificate has been executed and delivered by the corporation in accordance with paragraph 8 or this paragraph 9, but shall include only those Shares represented by such new certificate.

10. Definitions. The following terms have the following meanings, which meanings shall be equally applicable to the singular and plural forms of such terms:

(i) "Affiliate" shall mean with respect to any designated Person another Person controlling, controlled by or under common control with such designated Person, and shall include the spouse, parents, brothers, sisters, children and grandchildren of such designated Person and, without limiting the generality of the foregoing, the term "Affiliate" shall mean with respect to any designated Person, any association, partnership, trust, entity or enterprise in which such designated Person is a director, officer, or general partner of such Person or in which such designated Person together with Affiliates of such designated Person own in the aggregate a beneficial interest in assets, profits and losses equal to at least ten percent (10.0%).

(ii) "Business Day" means any day which is not a Saturday or a Sunday or a bank holiday in Orlando, Florida.

(iii) "Junior Security" means any equity security of any kind which the corporation shall at any time issue or be authorized to issue other than Series A Preferred Stock.

(iv) "Liquidation Value" of any Share as of any particular date shall be equal to the sum of One Hundred Dollars (\$100), plus any declared and unpaid dividends on such Share added to the Liquidation Value of such Share and, in the event of any liquidation, dissolution or winding up of the corporation or the redemption of such Share, declared and unpaid dividends on such Share shall be added to the Liquidation Value of such Share.

(v) "Person" includes an individual, a partnership, a corporation, a trust, a joint venture, an unincorporated organization and a government or any department or agency thereof.

(vi) "Purchase Agreement" means the Preferred Stock Purchase Agreement between the corporation and Nationsbank of Georgia, N.A., as successor in interest of Citizens and Southern Georgia Corporation, dated July 27, 1984, pursuant to which the Shares were issued, as the same shall from time to time be modified and amended.

(vii) "Purchase Price" means \$100 per Share, which is the purchase price for each Share of Series A Preferred Stock.

(viii) "Redemption Date" as to any Share means the applicable Scheduled Redemption Date in the case of a redemption of such Share pursuant to paragraph 3C, and with respect to redemptions provided for in paragraph 3D, the dates provided for redemption in the notice given pursuant to paragraph 3E; provided that for purposes of paragraph 3D, no such date shall be a Redemption Date unless on such date the applicable Redemption Price is actually paid or funds are required to pay the applicable Redemption Price are set aside by the corporation, separate and apart from its other funds, in trust for the pro rata benefit of holders of shares of Series A Preferred Stock to be redeemed should those funds be thus set aside, then notwithstanding any failure to surrender for cancellation any shares of Series A Preferred Stock being redeemed, the shares represented thereby shall no longer be deemed outstanding, the right to receive dividends thereon shall cease from and after the Redemption Date, and all rights of the holders of such shares shall terminate after that date save only the right of

those holders to receive the Redemption Price therefor without interest. Any funds thus set aside that remain unclaimed for one year after the Redemption Date shall revert to the corporation's general funds, and thereafter the holders of redeemed shares shall look only to the corporation for payment of the Redemption Price although such shares shall not be deemed outstanding.

(ix) "Retained Earnings" means the balance of net profits, income, gains and losses of the corporation from and after July 27, 1984, after deducting distributions therefrom to shareholders and transfers therefrom to capital stock or capital surplus accounts.

(x) "Voting Stock" means any shares of stock having general voting power in electing the board of directors (irrespective of whether or not at the time stock of any other class or classes has or might have voting power by reason of the happening of any contingency).

11. No Sale, Lease or Exchange of Assets, Mergers or Consolidations, or Certain Acquisitions Without Consent of Holders of Series A Preferred Stock. Without the prior written consent of the holders of a majority of the outstanding Shares, the corporation will not (a) sell, lease or exchange all or substantially all of its properties or assets, whether or not in the ordinary course of business and whether directly or through the sale or exchange of stock, (b) merge or consolidate with any other corporation; or (c) acquire directly or indirectly any business, whether by purchase of assets, stock or otherwise, (i) for a consideration, whether cash, notes, securities or otherwise, in excess of \$100,000 or (ii) which business has total liabilities exceeding its shareholders' equity, both determined in accordance with generally accepted accounting principles.

12. Amendment and Waiver. (a) No amendment, modification or waiver of any provision of this Article shall be binding or effective without the prior written consent of the holders of the Shares at the time such change shall be made. In any case, no such change shall:

(i) change the rate at which or the manner in which the dividends are calculated, or the times at which dividends become payable under this Article; or

(ii) change the provisions of paragraph 3.

(b) No amendment, modification or waiver of any provision of this Article shall extend to or affect any obligation not expressly amended, modified or waived or impair any right consequent thereon. No course of dealing, and no

failure to exercise or delay in exercising any right, remedy, power or privilege under this Article, shall operate as a waiver, amendment or modification of any provision in this Article.

13. Purchase Price and Payment. The corporation shall issue the Shares at a price that is not less than the Purchase Price. Upon payment by the holder of the full Purchase Price, in cash, the shares of the Series A Preferred Stock shall be fully paid and non-assessable."

SERIES B PREFERRED STOCK.

1. Priority. The Series B Preferred Stock shall be subordinate and junior in all respects to the Series A Preferred Stock. In the event of dissolution of the corporation, the holders of Series B Preferred Stock shall be entitled to preference and priority over the holders of the Common Stock in the distribution of its assets.

2. Dividends. Subject to the requirements on dividends set forth above with respect to the Series A Preferred Stock, the holders of the Series B Preferred Stock shall be entitled, as of November 1, 1992, to noncumulative dividends when declared by the board of directors of the corporation at the rate of ten percent (10%) per annum, payable out of the surplus profits of the corporation, in preference and priority to any dividends on the Common Stock. Dividends, when declared, shall be payable at the election of the board of directors, such dividends may be paid in cash or in additional shares of Series B Preferred Stock.

3. Voting Rights. The holders of Series B Preferred Stock shall not be entitled to vote at meetings of the stockholders of the corporation. Additionally, the liquidation and redemption rights of the holders of the Series B Preferred Stock shall not exceed the amount paid by the stockholders for those shares and the Series B Preferred shares are not convertible into Common Stock.

COMMON STOCK.

1. Priority. The Common Stock shall be subordinate and junior in all respects to the Series A Preferred Stock and the Series B Preferred Stock. In the event of dissolution of the corporation, the holders of the Series A Preferred Stock and the Series B Preferred Stock shall be entitled to preference and priority over the holders of the Common Stock in the distribution of its assets.

2. Voting Rights. The holders of the Common Stock of the corporation shall be entitled to vote at all meetings of the stockholders of the corporation on all matters properly coming before the stockholders for a vote as provided by the corporation's articles of incorporation and by the Act."

ARTICLE III.

SHAREHOLDER APPROVAL

The majority of the shareholders of each class of stock of MID-FLORIDA MINING COMPANY, which simple majority is the required amount under its articles of incorporation for approval of the merger, adopted a Plan and Agreement of Merger with respect to the merger on December 6, 1996. The majority of the shareholders of each class of stock of MFM INDUSTRIES, INC., which simple majority is the required amount under its articles of incorporation for approval of the merger, adopted the Plan and Agreement of Merger on December 6, 1996.

ARTICLE IV.

MERGER; EFFECT OF MERGER

1. Conversion of Shares. Upon the effectiveness of the merger, each share of (i) outstanding common stock of MFM INDUSTRIES, INC., held as of the date on which the merger becomes effective (the "Effective Date") by persons who hold at least 100 shares of MFM INDUSTRIES, INC. shall be converted into one share of common stock of MID-FLORIDA MINING COMPANY, and each share of common stock of MFM INDUSTRIES, INC. that is held as of the Effective Date by persons who do not hold at least 100 shares of MFM INDUSTRIES, INC. shall be converted into the right to receive, on and after the Effective Date, Seventy Dollars (\$70.00) from the Surviving Corporation; (ii) each share of

preferred stock of MFM INDUSTRIES, INC. shall be converted to one share of Series B Preferred Stock of the Surviving Corporation; and (iii) each share of the MID-FLORIDA MINING COMPANY Series A Preferred Stock shall remain in place without conversion and shall retain all rights and privileges pertaining thereto. The Mid-Florida common stock held by MFM Industries shall be cancelled on the Effective Date without being reissued or converted.

2. Surrender of Certificates. On the Effective Date, each outstanding share of common stock of MFM INDUSTRIES, INC. shall not be transferable, but shall evidence only the ownership of the cash or shares into which the shares of common stock of MFM INDUSTRIES, INC. have been converted in accordance with Section 1 of this Article IV. On the Effective Date, the holders of common stock of MFM INDUSTRIES, INC. shall surrender to the Surviving Corporation the certificates evidencing their shares of common stock, and as soon as practicable after receipt of the certificates, the Surviving Corporation shall distribute to the former shareholders of MFM INDUSTRIES, INC. cash or shares of MID-FLORIDA MINING COMPANY.

3. Effect of Merger. On the Effective Date, the separate corporate existence of MFM INDUSTRIES, INC. shall cease, and the corporate existence of MID-FLORIDA MINING COMPANY shall continue unaffected and unimpaired by the merger, and as the Surviving Corporation, it shall possess all the rights, privileges, immunities, powers, and franchises, of both a public and private nature, of each constituent corporation. All property, real, personal and mixed, all debts due on whatever account, including stock subscriptions, all other things in action, and every other interest of or belonging to each of the constituent corporations shall be

vested in the Surviving Corporation without further action, and the title to any interest in real estate, vested by deed or otherwise, in either constituent corporation shall not revert or be in any way impaired because of the merger, but any rights of creditors and any liens on property of either constituent corporation shall not be impaired by the merger. After the Effective Date, the Surviving Corporation shall assume and be liable for all liabilities and obligations of each constituent corporation, as if those liabilities and obligations had been incurred by the Surviving Corporation.

4. Dissenters' Rights. Shareholders of MFM INDUSTRIES, INC. who hold less than 100 shares of its common stock have the rights provided by Section 607.1302, Florida Statutes, to dissent to the merger and to be paid fair value for their shares if they comply with the provisions of the Act relating to dissenters' rights. The Surviving Corporation shall provide notice of the dissenters' rights and a copy of Sections 607.1301, 607.1302 and 607.1320 of the Act to the affected shareholders.

ARTICLE V.

DIRECTORS, OFFICERS AND BYLAWS

On and after the Effective Date, the directors of MFM INDUSTRIES, INC. shall continue to serve as the directors of the Surviving Corporation, the officers of MID-FLORIDA MINING COMPANY shall serve as the officers of the Surviving Corporation, and the bylaws of MID-FLORIDA MINING COMPANY shall continue to be the bylaws of the Surviving Corporation.

ARTICLE VI.

EFFECTIVENESS OF MERGER

The merger shall become effective on December 31, 1996, after the filing of these Articles of Merger in the Office of the Florida Department of State.

IN WITNESS WHEREOF, the undersigned officers of MID-FLORIDA MINING COMPANY and MFM INDUSTRIES, INC. have executed these Articles of Merger this 6th day of December, 1996.

MFM INDUSTRIES, INC.

By: W. M. Palmer, Jr.
W. M. Palmer, Jr.,
Its President

MID-FLORIDA MINING COMPANY

By: Michael W. Wilkinson
Michael W. Wilkinson,
Its President

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EFFECTIVE DATE
12/31/96

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER is made as of December 6, 1996, by and between MFM Industries, Inc., a Florida corporation ("MFM") and Mid-Florida Mining Company, a Florida corporation ("Mid-Florida") (collectively, the "Constituent Corporations").

Background. The authorized capital of MFM consists of 1,000,000 shares of Common Stock, par value \$.01 per share, of which 222,977 shares are issued and 141,745 shares are outstanding; and 100,000 shares of Preferred Stock, par value \$1.00 per share, of which 23,159 shares are issued and outstanding. The authorized capital of Mid-Florida consists of 1,000 shares of Common Stock, par value \$.01 per share, of which 100 shares are issued and outstanding; and 25,000 shares of Series A Preferred Stock, par value \$1.00 per share, of which 10,500 shares are issued and outstanding. Mid-Florida is a subsidiary of MFM, with MFM owning all of its outstanding Common Stock and its Series A Preferred Stock being held by others.

The Boards of Directors of MFM and Mid-Florida have determined that it is desirable and in the best interests of the corporations and their respective shareholders that MFM be merged into Mid-Florida on the terms and conditions set forth herein, in accordance with the provisions of the Florida Business Corporation Act. The Boards of Directors have approved this Agreement by resolutions duly adopted.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements, covenants, and provisions contained herein, the parties agree as follows:

1. **Merger.** MFM shall be merged into Mid-Florida, and Mid-Florida shall survive the merger as the Surviving Corporation. The separate corporate existence of MFM shall cease. The corporate existence of Mid-Florida shall continue unaffected and unimpaired by the merger, and as the Surviving Corporation, it shall continue to be governed by the laws of the State of Florida.
2. **Effect of Merger.** As the Surviving Corporation, Mid-Florida shall possess all the rights, privileges, immunities, powers, and franchises of both a public and private nature, of each Constituent Corporation. All property, real, personal, and mixed, all debts due on whatever account, including stock subscriptions, all other things in action, and every other interest of, or belonging to, each Constituent Corporation shall be vested in the Surviving Corporation without further action, and the title to any interest in real estate, vested by deed or otherwise, in either Constituent Corporations shall not revert or be in any way impaired by the merger, but the rights of creditors and any liens on property of either Constituent Corporation shall not be impaired by the merger. After the Effective Date of the merger, the Surviving Corporation shall assume and be liable for all liabilities and obligations of each Constituent Corporation, as if those liabilities and obligations had been incurred by the Surviving Corporation.
3. **Survival of Claims.** Any claim existing or action or proceeding pending by or against either Constituent Corporation may be prosecuted as if the merger had not taken place.

4. Further Actions. From time to time after the merger and when requested by Mid-Florida or its legal representatives, successors, or assigns, the officers and directors of MFM last in office shall execute and deliver every deed or other instrument and shall take or cause to be taken every other action that is necessary to vest, perfect, or confirm of record or otherwise, Mid-Florida's title to and possession of all the property, rights, privileges, powers and franchises of MFM and otherwise to carry out the purposes of this Agreement.

5. Articles of Incorporation of Surviving Corporation. The Articles of Incorporation of Mid-Florida, as in effect at the Effective Date of this Agreement, shall continue in full force and effect as the Articles of Incorporation of the Surviving Corporation, except, at the Effective Date, Articles I and IV shall be amended to read as follows:

"ARTICLE I. NAME

The name of the Corporation shall be: MFM INDUSTRIES, INC."

* * * * *

"ARTICLE IV. AUTHORIZED SHARES

The total number of shares of all classes of stock which the corporation shall have authority to issue is 25,000 shares of Series A Preferred Mid-Stock, par value \$1.00 per share (herein called the "Series A Preferred Stock"), 100,000 shares of Series B Preferred Stock, par value \$1.00 per share (herein called the "Series B Preferred Stock"), and 1,000,000 shares of Common Stock, par value \$.01 per share (herein called the "Common Stock"). The consideration to be paid for each share shall be fixed by the board of directors and may be paid in whole or in part in cash or other property, tangible or intangible, or in labor or services actually performed for the corporation, with a value, in the judgment of the directors, equivalent to or greater than the full par value of the shares.

The following is a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, in respect to the classes of stock of the corporation. All cross-references in each part of this Article refer to other paragraphs in this Article unless otherwise indicated.

SERIES A PREFERRED STOCK.

1. Dividends.

1A. General Dividend Obligation. When and as declared by the board of directors of the corporation, the corporation shall pay to the holders of the Series A Preferred Stock, out of the Retained Earnings of the corporation, dividends at the times and in the amounts provided for in this paragraph 1, and

the Series A Preferred Stock shall be entitled to the dividend preferences set forth in paragraph 1E of this Article.

1B. Calculation of Dividends. Dividends on each share of Series A Preferred Stock (each of which is referred to in this subdivision as a "Share"), as of November 1, 1992, shall be noncumulative and, if declared by the board of directors of the corporation, shall be calculated on a daily basis at the rate and in the manner prescribed herein from and including the date of issuance of such Share to and including the date on which the Redemption Price of such Share shall have been paid, provided that Retained Earnings of the corporation are available for payment of dividends. For purposes of this paragraph 1B, the date of issuance of a Share shall not change as a result of a subsequent issuance of additional certificates evidencing the same Share (whether by reason of transfer of the Share or for any other reason).

1C. Dividend Rate. If declared by the board of directors of the corporation, dividends shall be calculated on each Share at the rate of ten percent (10%) per annum of the Purchase Price thereof from November 1, 1992, and shall be paid on the date specified by the board of directors. To the extent not paid, all dividends which have been declared on each Share then outstanding during the period shall be added to the Liquidation Value of such Share and shall remain a part thereof until (but only until) such dividends are paid. Any dividends payable hereunder may be paid in cash or, at the election of the Board of Directors, in additional shares of Series A Preferred Stock.

1D. Distribution of Partial Dividend Payments. If at any time the corporation shall pay less than the total amount of dividends then declared on the Series A Preferred Stock, such lesser payment shall be distributed among the holders of the Series A Preferred Stock so that an equal amount shall be paid with respect to each outstanding Share.

1E. Priority. The Series A Preferred Stock shall rank senior to the Junior Securities in respect of dividend payments to the extent provided in this paragraph 1E. So long as any Series A Preferred Stock shall remain outstanding, no Junior Securities shall be acquired or redeemed by the corporation, nor shall any dividend be declared or paid, nor shall any distribution be made, upon any Junior Securities by the corporation; provided that so long as no Event of Noncompliance or Potential Event of Noncompliance shall have occurred and be continuing, the corporation may pay dividends and make distributions on Junior Securities.

2. Liquidation. Upon any liquidation (complete or partial), voluntary dissolution or winding up of the corporation, whether voluntary or involuntary, the holders of the Series A Preferred Stock shall be entitled, before any distribution or payment is made upon any Junior Securities of the corporation, to

be paid out of the assets of the corporation available for distribution to its shareholders (whether from capital surplus or earnings) an amount in cash equal to the aggregate Liquidation Value of all their Shares outstanding, and the holders of the Series A Preferred Stock shall not be entitled to any further payment. Upon any liquidation, voluntary dissolution or winding up of the corporation, after the holders of the Series A Preferred Stock shall have been paid in full the amounts to which they shall be entitled, the remaining assets of the corporation may be distributed to the holders of Junior Securities of the corporation. Written notice of such liquidation, dissolution or winding up, stating a payment date, the amount of the payment and the place where the amounts distributable shall be payable, shall be mailed by certified or registered mail, return receipt requested, not less than sixty days prior to the payment date stated therein, to each record holder of any Share at the address for such record holder shown on the corporation's records. Neither the consolidation nor the merger of the corporation into or with any other corporation or corporations, nor the sale or transfer by this corporation of all or any part of its assets, nor the reduction of the capital stock of the corporation, shall be deemed to be liquidation, dissolution or winding up of the corporation with the meaning of any of the provisions of this paragraph 2.

3. Redemptions.

3A. Redemption Price. For each Share which is to be redeemed by the corporation at any time and for any reason in a redemption pursuant to this paragraph 3 (except as provided in paragraph 3D(ii) hereof), the corporation shall, on the Redemption Date, pay to the holder thereof (upon surrender by such holder at the corporation's principal office of the certificate representing such Share duly endorsed in blank or accompanied by an appropriate form of assignment) an amount (the "Redemption Price" for such Share) equal to the Liquidation Value of such Share; provided that nothing herein shall be construed to require any actual payment before such can be made pursuant to this paragraph 3, the provisions of any loan agreement made by the corporation with its lenders, or applicable law.

3B. Redeemed or Otherwise Acquired Shares Not to be Reissued. Any Shares redeemed pursuant to this paragraph 3 or otherwise acquired by the corporation in any manner whatsoever shall not under any circumstances be reissued, sold or transferred by the corporation.

3C. Scheduled Redemptions. Irrespective of any redemptions made pursuant to paragraph 3D or otherwise, the corporation shall provide for the redemption of the Series A Preferred stock pursuant to the following schedule:

July 1,

Amount

1994	\$206,700
1995	225,000
1996	225,000
1997	225,000
1998	225,000
1999	150,000

Such redemptions shall be made solely from the Retained Earnings of the corporation; provided that if on any Scheduled Redemption Date the Retained Earnings of the corporation are insufficient to redeem the entire number of Shares scheduled under this paragraph 3C to be redeemed on such date, the corporation shall redeem the maximum number of such Shares possible, based on Retained Earnings that are available for that purpose. Thereafter, any additional Retained Earnings becoming legally available for such purposes (as determined not later than the next Scheduled Redemption Date) shall be used by the corporation, not later than thirty (30) days after they are determined to be available for such purposes, to redeem the balance of the Shares scheduled to have been redeemed on any Scheduled Redemption Date but which shall not have been redeemed due to (a) lack of Retained Earnings, or (b) restrictions imposed on the corporation by its lenders in any loan documents.

3D. Optional Redemption. (i) The corporation may redeem, in addition to any other shares redeemed pursuant to this paragraph 3, at its sole election, Series A Preferred Stock, out of Retained Earnings and any other funds legally available for making redemptions, and by decision of the board of directors of the corporation, at the Redemption Price for the Shares.

(ii) The holders of the Shares may, at their sole election, tender all or part of the Shares for redemption by the corporation, and the corporation shall be obligated to redeem such tendered shares at Liquidation Value, if any one or more of the following events occurs:

- (a) more than 25% of the outstanding Common Stock of the corporation in the aggregate is transferred by the holders thereof;
- (b) the occurrence of an Event of Noncompliance under paragraph 5 hereof.

If on any Redemption Date under this paragraph 3D(ii) the Retained Earnings of the corporation are insufficient to redeem the entire number of Shares tendered by the holder on the date of tender, the corporation shall redeem the maximum number of shares possible, based on Retained Earnings that are available therefor. Thereafter, any additional Retained Earnings becoming legally available for such purposes (as determined not later than the next Scheduled Redemption Date) shall

be used by the corporation, not later than thirty (30) days after they are determined to be legally available for such purposes, to reduce the balance of the Shares tendered but not redeemed.

3E. Notice of Redemption. Notice of any redemption of Series A Preferred Stock, specifying the time, date and place of redemption, the Redemption Price and the paragraph pursuant to which such redemption is being made, shall be mailed by certified or registered mail, return receipt requested, to each holder of record of Shares to be redeemed, at the address for such holder shown on the corporation's records, or, in the event of a redemption pursuant to paragraph 3D(ii) hereof, to the principal place of business of the corporation, not more than sixty nor less than thirty days prior to the date on which such redemption is to be made. The notice shall also specify the number of Shares and the certificate numbers thereof which are to be redeemed. With respect to redemptions made pursuant to paragraph 3D, upon mailing any such notice of redemption the corporation shall become obligated at the time of redemption specified therein to redeem all Shares therein specified. In case less than all the Shares represented by certificate are redeemed, a new certificate representing the unredeemed Shares shall be issued to the holder thereof without cost to such holder.

3F. Dividends After Redemption Date. No Share shall be entitled to any dividends declared after its Redemption Date unless the Redemption Price is not paid in full on the Redemption Date, and on such Redemption Date all rights of the holder of such Share as a shareholder of the corporation by reason of the ownership of such Share, shall cease, except the right to receive the Redemption Price of such Share upon presentation and surrender of the certificate representing such Share, and such Share shall not after such Redemption Date be deemed to be outstanding.

3G. Other Redemptions or Acquisitions. The corporation shall neither redeem nor otherwise acquire any Series A Preferred Stock except as expressly authorized in this Article.

3H. Declared Dividends Must be Paid Prior to Any Redemption. The corporation shall not redeem any Shares at anytime outstanding unless all dividends declared on the Series A Preferred Stock through the Redemption Date shall have been paid.

4. Voting Rights. The holders of the Shares shall not be entitled to vote for directors or upon any other matter, except as provided by law.

5. Events of Noncompliance.

5A. Definition. (l) An Event of Noncompliance shall be deemed to have occurred if:

- (a) the corporation, for any reason other than a lack of Retained Earnings or restrictions imposed by its lenders in any loan document, fails to pay the full amount of dividends then declared on the Shares but unpaid;
- (b) the corporation, for any reason other than a lack of Retained Earnings or restrictions imposed by its lenders in any loan document, fails to redeem on any Scheduled Redemption Date all of the Shares then scheduled to be redeemed and all of the Shares scheduled to have been redeemed on any previous Scheduled Redemption Date which have not been redeemed;
- (c) the corporation, for any reason other than a lack of Retained Earnings or restrictions imposed by its lenders in any loan document, fails to redeem on any date specified in any notice of redemption mailed pursuant to paragraph 3E all of the Shares specified in such notice to be redeemed on such date;
- (d) the corporation otherwise materially fails to perform or observe any other material covenant or agreement set forth in this Article IV, and the failure is not cured within 30 days after the corporation's receipt of written notice of the failure;
- (e) the corporation makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due; or any order, judgment or decree is entered adjudicating the corporation bankrupt or insolvent; or any order for relief with respect to the corporation is entered under the Federal Bankruptcy law; or the corporation petitions or applies to any tribunal for the appointment of a trustee, receiver or liquidator of the corporation, or of any substantial part of the assets of the corporation, or commences any proceedings relating to the corporation under any bankruptcy, reorganization, arrangement,

insolvency, readjustment or debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect; or any such petition or application is filed, or any such proceedings are commenced, against the corporation and the corporation by any act indicates its approval thereof, consent thereto or acquiescence therein or an order, judgment or decree is entered appointing any such trustee, receiver or liquidator, or approving the petition in any such proceedings, and such order, judgment or decree remains unstayed and in effect for more than sixty days; or any involuntary case is commenced under the Federal Bankruptcy law with respect to the corporation and is not dismissed within sixty days; or any order, judgment or decree is entered in any proceedings against the corporation decreeing the dissolution of the corporation and such order, judgment or decree remains unstayed and in effect for more than sixty days; or any order, judgment, or decree is entered in any proceeding against the corporation decreeing a split-up of the corporation and such order, judgment or decree remains unstayed and in effect for more than sixty days;

- (f) the corporation defaults in any payment of principal of or interest on any obligation for money borrowed or received (or any obligation under a conditional sale or other title retention agreement or any obligation issued or assumed as full or partial payment for property whether or not secured by purchase money mortgage or any obligation under notes payable or drafts accepted representing extensions of credit) beyond any period of grace provided with respect thereto, or defaults in the performance of any other agreement, term or condition contained in any agreement under which any such obligation is created (or if any other default under any such agreement shall occur and be continuing) if the effect of such default is to cause, or to permit the holder or holders of such obligation (or a trustee on behalf of such holder or holders) to cause, such obligation to become due prior to its stated maturity; or

(g) a final judgment in an amount in excess of One Hundred Thousand Dollars (\$100,000) is rendered against the corporation and, within sixty days after entry thereof, such judgment is not discharged or execution thereof stayed pending appeal, or within sixty days after the expiration of any such stay, such judgment is not discharged.

(ii) The existence or continuation of any Event of Noncompliance shall be irrespective of whether such event or the underlying facts shall have come about voluntarily or involuntarily or shall be beyond the corporation's control or shall have come about or been effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body or because the corporation cannot redeem any Shares or perform or observe any covenant or agreement in this Article.

(iii) The term "Potential Event of Noncompliance" means the occurrence of any event which with the passage of time or the giving of notice or both would become an Event of Noncompliance.

5B. Consequences of Certain Events of Noncompliance. (i) If any Event of Noncompliance shall exist, the holder of the Shares shall have the right to immediately tender its shares to the corporation for immediate redemption thereof at the Liquidation Value for each share, in accordance with the provisions of paragraph 3D(ii).

(ii) If any Event of Noncompliance shall exist, the holder of the Shares shall have, in addition to the rights expressly provided in this paragraph 5B, any other rights which such holder may have been afforded under the Purchase Agreement or under any other contract or agreement at any time and any other rights which such holder may have under applicable law.

6. Restrictions. (a) So long as any Series A Preferred Stock shall be outstanding, the corporation shall not, without the consent of the holders of a majority of the outstanding shares of Series A Preferred Stock, create any class or series of stock ranking, as to payment of dividends or as to liquidation preference, prior to, or equal to, the Series A Preferred Stock.

(b) So long as any Series A Preferred Stock shall remain outstanding, the corporation shall not, without the consent of the holders of a majority of the outstanding shares of Series A Preferred Stock, (i) amend, alter or repeal this Article, (ii) otherwise amend, alter or repeal the articles of incorporation or bylaws, or file any directors' resolutions pursuant to the law of the State of Florida, adversely affecting any of the powers, preferences and

special rights of the holders of Series A Preferred Stock set forth in this Article, (iii) be a party to or enter into any agreement, other than customary limitations contained in loan documents, which would by its terms prohibit or in any way restrict the corporation from declaring or paying dividends on, or redeeming, the Series A Preferred Stock when required by this Article, or performing any other obligation to the holders of the Series A Preferred Stock imposed on the corporation by this Article, or redeeming the Series A Preferred Stock, or performing any other obligation to the holders of the Series A Preferred Stock imposed on the corporation by this Article.

(c) So long as (i) any Series A Preferred Stock shall be outstanding, and (ii) any payment due from the corporation to the holders of the Shares by way of dividend, payment of Redemption Price, or payment of any liquidation price, has not been paid, the corporation shall not make any payment of principal or interest due on notes payable or any other forms of indebtedness to any holder of Common Stock of the corporation or, except payment and interest due on indebtedness incurred in the ordinary course of business, to any Affiliate of any holder of Common Stock of the corporation.

7. Closing of Books. Except as provided in paragraph 3B of this Article or as required by applicable laws, the corporation will not close its books against the transfer of any Share.

8. Registration of Transfer. The corporation shall keep at its principal office (or such other place as the corporation may reasonably designate) a register for the registration of Shares. Upon the surrender of any certificate representing Series A Preferred Stock at such place, the corporation shall, at the request of the registered holder of such certificate, execute and deliver a new certificate or certificates in exchange therefor representing in the aggregate the number of Shares represented by the surrendered certificate (and the corporation forthwith shall cancel such surrendered certificate) subject to the requirements of applicable securities laws. Each such new certificate shall be registered in such name and shall represent such number of Shares as shall be requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate; and any dividends declared by the board of directors shall accrue to the Shares represented by such new certificate. The issuance of new certificates shall be made without charge to the holders of the surrendered certificates for any issuance tax in respect thereof or other costs incurred by the corporation in connection with such issuance; provided that the corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the surrendered certificate.

9. **Replacement.** (i) Upon receipt of evidence reasonably satisfactory to the corporation (an affidavit of the registered holder, without bond, shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing one or more Shares and, in the case of any such loss, theft, or destruction, upon receipt of indemnity reasonably satisfactory to the corporation (provided that if the registered holder is the purchaser named in the Purchase Agreement, its own agreement of indemnity shall be satisfactory), or, in the case of any mutilation, upon surrender of such certificate, the corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Shares represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

(ii) The term "outstanding" when used in this Article with reference to Shares as of any particular time shall not include any shares represented by any certificate in lieu of which a new certificate has been executed and delivered by the corporation in accordance with paragraph 8 or this paragraph 9, but shall include only those Shares represented by such new certificate.

10. **Definitions.** The following terms have the following meanings, which meanings shall be equally applicable to the singular and plural forms of such terms:

(i) "Affiliate" shall mean with respect to any designated Person another Person controlling, controlled by or under common control with such designated Person, and shall include the spouse, parents, brothers, sisters, children and grandchildren of such designated Person and, without limiting the generality of the foregoing, the term "Affiliate" shall mean with respect to any designated Person, any association, partnership, trust, entity or enterprise in which such designated Person is a director, officer, or general partner of such Person or in which such designated Person together with Affiliates of such designated Person owns in the aggregate a beneficial interest in assets, profits and losses equal to at least ten percent (10.0%).

(ii) "Business Day" means any day which is not a Saturday or a Sunday or a bank holiday in Orlando, Florida.

(iii) "Junior Security" means any equity security of any kind which the corporation shall at any time issue or be authorized to issue other than Series A Preferred Stock.

(iv) "Liquidation Value" of any Share as of any particular date shall be equal to the sum of One Hundred Dollars (\$100), plus any declared and unpaid dividends on such Share added to the Liquidation Value of such Share and, in the event of any liquidation, dissolution or winding up of the corporation

or the redemption of such Share, declared and unpaid dividends on such Share shall be added to the Liquidation Value of such Share.

(v) "Person" includes an individual, a partnership, a corporation, a trust, a joint venture, an unincorporated organization and a government or any department or agency thereof.

(vi) "Purchase Agreement" means the Preferred Stock Purchase Agreement between the corporation and Nationsbank of Georgia, N.A., as successor in interest of Citizens and Southern Georgia Corporation, dated July 27, 1984, pursuant to which the Shares were issued, as the same shall from time to time be modified and amended.

(vii) "Purchase Price" means \$100 per Share, which is the purchase price for each Share of Series A Preferred Stock.

(viii) "Redemption Date" as to any Share means the applicable Scheduled Redemption Date in the case of a redemption of such Share pursuant to paragraph 3C, and with respect to redemptions provided for in paragraph 3D, the dates provided for redemption in the notice given pursuant to paragraph 3E; provided that for purposes of paragraph 3D, no such date shall be a Redemption Date unless on such date the applicable Redemption Price is actually paid or funds are required to pay the applicable Redemption Price are set aside by the corporation, separate and apart from its other funds, in trust for the pro rata benefit of holders of shares of Series A Preferred Stock to be redeemed should those funds be thus set aside, then notwithstanding any failure to surrender for cancellation any shares of Series A Preferred Stock being redeemed, the shares represented thereby shall no longer be deemed outstanding, the right to receive dividends thereon shall cease from and after the Redemption Date, and all rights of the holders of such shares shall terminate after that date save only the right of those holders to receive the Redemption Price therefor without interest. Any funds thus set aside that remain unclaimed for one year after the Redemption Date shall revert to the corporation's general funds, and thereafter the holders of redeemed shares shall look only to the corporation for payment of the Redemption Price although such shares shall not be deemed outstanding.

(ix) "Retained Earnings" means the balance of net profits, income, gains and losses of the corporation from and after July 27, 1984, after deducting distributions therefrom to shareholders and transfers therefrom to capital stock or capital surplus accounts.

(x) "Voting Stock" means any shares of stock having general voting power in electing the board of directors (irrespective of whether or not at the time stock of any other class or classes has or might have voting power by reason of the happening of any contingency).

11. No Sale, Lease or Exchange of Assets, Mergers or Consolidations, or Certain Acquisitions Without Consent of Holders of Series A Preferred Stock. Without the prior written consent of the holders of a majority of the outstanding Shares, the corporation will not (a) sell, lease or exchange all or substantially all of its properties or assets, whether or not in the ordinary course of business and whether directly or through the sale or exchange of stock, (b) merge or consolidate with any other corporation; or (c) acquire directly or indirectly any business, whether by purchase of assets, stock or otherwise, (i) for a consideration, whether cash, notes, securities or otherwise, in excess of \$100,000 or (ii) which business has total liabilities exceeding its shareholders' equity, both determined in accordance with generally accepted accounting principles.

12. Amendment and Waiver. (a) No amendment, modification or waiver of any provision of this Article shall be binding or effective without the prior written consent of the holders of the Shares at the time such change shall be made. In any case, no such change shall:

(i) change the rate at which or the manner in which the dividends are calculated, or the times at which dividends become payable under this Article; or

(ii) change the provisions of paragraph 3.

(b) No amendment, modification or waiver of any provision of this Article shall extend to or affect any obligation not expressly amended, modified or waived or impair any right consequent thereon. No course of dealing, and no failure to exercise or delay in exercising any right, remedy, power or privilege under this Article, shall operate as a waiver, amendment or modification of any provision in this Article.

13. Purchase Price and Payment. The corporation shall issue the Shares at a price that is not less than the Purchase Price. Upon payment by the holder of the full Purchase Price, in cash, the shares of the Series A Preferred Stock shall be fully paid and non-assessable."

SERIES B PREFERRED STOCK.

1. Priority. The Series B Preferred Stock shall be subordinate and junior in all respects to the Series A Preferred Stock. In the event of dissolution of the corporation, the holders of Series B Preferred Stock shall be entitled to preference and priority over the holders of the Common Stock in the distribution of its assets.

2. Dividends. Subject to the requirements on dividends set forth above with respect to the Series A Preferred Stock, the holders of the Series B

Preferred Stock shall be entitled, as of November 1, 1992, to noncumulative dividends when declared by the board of directors of the corporation at the rate of ten percent (10%) per annum, payable out of the surplus profits of the corporation, in preference and priority to any dividends on the Common Stock. Dividends, when declared, shall be payable at the election of the board of directors, such dividends may be paid in cash or in additional shares of Series B Preferred Stock.

3. Voting Rights. The holders of Series B Preferred Stock shall not be entitled to vote at meetings of the stockholders of the corporation. Additionally, the liquidation and redemption rights of the holders of the Series B Preferred Stock shall not exceed the amount paid by the stockholders for those shares and the Series B Preferred shares are not convertible into Common Stock."

COMMON STOCK.

1. Priority. The Common Stock shall be subordinate and junior in all respects to the Series A Preferred Stock and the Series B Preferred Stock. In the event of dissolution of the corporation, the holders of the Series A Preferred Stock and the Series B Preferred Stock shall be entitled to preference and priority over the holders of the Common Stock in the distribution of its assets.

2. Voting Rights. The holders of the Common Stock of the corporation shall be entitled to vote at all meetings of the stockholders of the corporation on all matters properly coming before the stockholders for a vote as provided by the corporation's articles of incorporation and by the Act."

6. Bylaws. The Bylaws of Mid-Florida, as existing at the Effective Date of the merger, shall be the Bylaws of the Surviving Corporation.

7. Directors and Officers of Surviving Corporation. After the Effective Date of the merger, the directors of MFM in office as of the Effective Date shall continue to serve as the directors and the officers Mid-Florida as of the Effective Date shall continue to serve as the officers of the Surviving Corporation and shall hold office until their successors are duly elected and qualify. If, after the Effective Date of the merger, one or more of the directors or officers fails or is unable to serve as a director or officer of the Surviving Corporation, the vacancy shall be filled in the manner provided in the Bylaws of the Surviving Corporation.

8. Conversion of Shares.

(a) Shares of Mid-Florida. The issued Series A Preferred Stock of Mid-Florida shall not be converted as a result of the merger, but shall remain issued shares of the Series A Preferred Stock of the Surviving Corporation. The issued shares of the common stock of Mid-Florida held by MFM shall not be converted into shares of the common stock of the Surviving Corporation.

(b) Shares of MFM. On the Effective Date, without any action on the part of the MFM shareholders, and solely by virtue of the merger, (a) each share of the issued and outstanding MFM Preferred Stock shall automatically be converted into one share of the Series B Preferred Stock of the Surviving Corporation; and (b) each share of the issued and outstanding MFM common stock held by those shareholders holding at least 100 shares of MFM common stock shall automatically be converted into one share of the common stock, \$.01 par value, of Surviving Corporation; and (c) each share of the issued and outstanding MFM common stock held by those shareholders holding less than 100 shares of MFM common stock shall be converted into the right to receive Seventy Dollars (\$70.00) in cash, payable on and after the Effective Date. Thereafter, all rights in respect of the MFM common and preferred stock shall cease to exist, and the certificates evidencing the shares of MFM stock shall be cancelled.

9. Procedure for Exchange of Shares. On the Effective Date, the shareholders of MFM shall surrender to the Surviving Corporation every certificate evidencing outstanding shares of MFM common and preferred stock, in exchange for the cash and stock of Surviving Corporation described above. Until surrendered, each outstanding share of MFM stock shall not be transferable, but shall evidence solely the ownership of the cash and stock of Surviving Corporation into which the shares of MFM stock have been converted. Every dividend and other distribution to be paid with respect to the MFM stock shall be made to the holder until the certificates evidencing the outstanding shares have been surrendered to the Surviving Corporation. As soon as practicable after it receives the certificates evidencing the MFM stock, the Surviving Corporation shall distribute to the former holders of the MFM stock the cash or shares to which they are entitled by virtue of the merger. If any payment for shares of MFM Stock is to be made in a name other than that in which the certificate for the shares surrendered for exchange is registered on the stock transfer books of MFM on the Effective Date, it shall be a condition of the exchange that the certificate so surrendered shall be promptly endorsed or otherwise in proper form for transfer and that the person requesting the payment shall either (i) pay to the Surviving Corporation any transfer or other taxes required because of the payment to a person other than the registered holder of the certificate surrendered, or (ii) establish to the satisfaction of the Surviving Corporation that the tax has been paid or is not payable.

10. Non-Payment of Interest. No interest shall accrue or be payable with respect to any funds held by the Surviving Corporation for the benefit of former holders of MFM Stock. The Surviving Corporation shall not make any payment to a former holder of MFM Stock except upon the surrender of the certificates evidencing his shares or upon appropriate arrangements with respect to missing certificates for shares of MFM Stock converted in the merger.

11. Representations and Warranties of MFM. MFM represents and warrants to Mid-Florida that (a) it is a corporation duly organized, validly existing, and in good standing under the laws of Florida; (b) the execution, delivery, and performance of MFM of this Agreement has been duly authorized by its board of directors, subject to approval by its shareholders; and (c) neither the execution and delivery of this Agreement, nor the consummation of the transactions provided for in this Agreement, nor compliance with and fulfillment of the terms and provisions of this Agreement will conflict with the articles of incorporation or bylaws of MFM. Subject to approval by its shareholders, MFM has full corporate power and authority

to merge into Mid-Florida pursuant to this Agreement and to perform all acts required of it under this Agreement.

12. Representations and Warranties of Mid-Florida. Mid-Florida represents and warrants to MFM that (a) it is a corporation duly organized, validly existing, and in good standing under the laws of Florida; (b) the execution, delivery, and performance by Mid-Florida of this Agreement has been duly authorized by its board of directors, subject to approval by its shareholders; and (c) neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement, nor compliance with and fulfillment of the terms and provisions of this Agreement will conflict with the articles of incorporation or bylaws of Mid-Florida. Subject to approval by its shareholders, Mid-Florida has full corporate power and authority to merge with MFM pursuant to this Agreement and to perform all acts required of it under this Agreement.

13. Effective Date of Merger. On, or prior to, December 31, 1996, subject to the approval of this Agreement by the shareholders of MFM and by the shareholders of Mid-Florida, executed Articles of Merger, in substantially the form attached as Exhibit "A" to this Agreement, specifying an effective date of December 31, 1996, shall be filed in the office of the Florida Department of State. The merger will become effective on the date specified in the Articles of Merger, upon the completion of that filing in the manner required by the Florida Business Corporation Act. The date of effectiveness is referred to in this Agreement as the "Effective Date". Certified copies of the Articles of Merger also shall be filed and recorded in every jurisdiction in which MFM owns real estate property and in every other place, and in the manner, required by Florida law, but the effectiveness of the merger shall not depend upon those filings and recordings. The parties to this Agreement shall use their best efforts promptly to satisfy all conditions to their obligations under this Agreement in order to expedite the Effective Date of the merger.

14. MFM and Mid-Florida Covenants. Except as contemplated by this Agreement, MFM and Mid-Florida each covenants that, between the date of this Agreement and the Effective Date of the merger, it shall not conduct its business in a manner that is inconsistent with its normal business practices or take any action that has a material and adverse effect on its financial condition, business, properties, or operation, taken as a whole.

15. MFM Stock Option Plan. The Surviving Corporation agrees to assume all options outstanding on the Effective Date that are held by the MFM shareholders and that were issued on or before January 31, 1995, pursuant to MFM's stock option plans (the "Option Plans"), estimated to represent the right to purchase, in the aggregate, 158,953 shares of MFM common stock. Options held by persons who are not MFM shareholders are automatically cancelled on the Effective Date. Mid-Florida shall assume the options of the MFM shareholders upon the same terms and conditions that apply to those options at the Effective Date of this Agreement.

After the Effective Date, Mid-Florida may make any amendments to the Option Plans as it, in its discretion, may decide, and may terminate, merge, or otherwise dispose of the Option Plans as it decides.

Mid-Florida has no obligation to any of the participants in the Option Plans with regard to income tax consequences of the transactions involving the assumption or substitution of the options described above under the provisions of the Internal Revenue Code, as amended and the applicable Treasury Regulations issued thereunder.

16. Conditions of Closing. The consummation of the transactions contemplated by this Agreement is conditioned upon the approval of this Agreement by the shareholders of MFM and Mid-Florida by the vote required by the Act.

17. Closing. The closing of the transactions contemplated by this Agreement shall take place on the Effective Date of the Merger at the offices of Mid-Florida in Ocala, Florida, or at such other place as the parties may determine to be convenient.

18. Termination. Notwithstanding anything in this Agreement to the contrary, and notwithstanding approval of this Agreement by the shareholders of the Constituent Corporations, this Agreement may be terminated and the merger abandoned at any time before the Effective Date, as follows:

(a) By the consent of the board of directors of each Constituent Corporation;
or

(b) By the board of directors of either Constituent Corporation, if the merger has not been effected on or before June 30, 1997, or such later date as the board of directors of each Constituent Corporation agrees; or

(c) By the board of directors of either Constituent Corporation if any action, suit, or proceeding has been instituted or threatened against MFM or Mid-Florida to restrain, prohibit, or otherwise challenge the legality of the merger; or

(d) By the board of directors of either Constituent Corporation if, on the closing date, any representation or warranty made by the other Constituent Corporation pursuant to this Agreement is false.

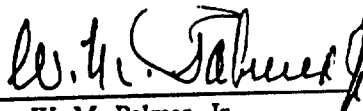
19. Form and Execution of Agreement. The parties may execute this Agreement in two or more counterparts, each of which will be considered an original but all of which together shall constitute one and the same instrument and shall be considered effective when one or more counterparts have been signed by each party to this Agreement and delivered to MFM. The titles and headings preceding the text of the paragraphs of this Agreement are inserted solely for convenience of reference and do not constitute a part of this Agreement or affect its meaning.

20. Final Agreement. This Agreement contains the final, complete, and exclusive expression of the understanding of the parties with respect to the transactions contemplated by this Agreement, and supersedes any prior or contemporaneous agreement or representation, oral or written, by any of them. The parties cannot modify this Agreement except by an Agreement signed by the party against whom the modification or amendment is sought to be enforced.

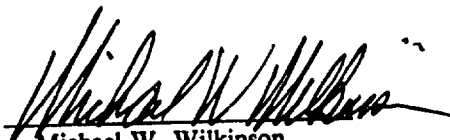
21. Assignment. A party shall not assign its rights or delegate its obligations under this Agreement without the prior consent of every other party. This Agreement is binding on, and is for the benefit of, the parties, and their legal representatives, successors, and permitted assignees.

IN WITNESS WHEREOF, the authorized officers of the parties have executed this Agreement as of the day and year first above written.

MFM INDUSTRIES, INC.

By: 
W. M. Palmer, Jr.
Its President

MID-FLORIDA MINING COMPANY

By: 
Michael W. Wilkinson
Its President

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