WACHTELL, LIPTON, ROSEN & KATZ

October 29, 1982

To Our Clients:

Takeovers: Charter Amendments
Staggered Board of Directors
Fair Price Second-Step Protection

Further to our recent advice that consideration be given to a staggered board of directors and fair price second-step protection, we have prepared model proxy statement materials and charter provisions. In addition, we have prepared a model by-law provision to deal with the Delaware written consent problem. The models are attached.

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ANNEX I

Model Proxy Statement Disclosure for Adoption of Charter and By-Law Amendments Providing for a Classified Board of Directors

Proposed Amendments to the Company's Certificate of Incorporation and By-Laws

General

The Company's Board of Directors has unanimously approved amendments to the Company's Certificate of Incorporation (the "Certificate") and substantially identical conforming amendments to the Company's By-Laws (the "By-Laws") and has voted to recommend that the Company's shareholders approve such amendments. The proposed amendments would: (1) classify the Board of Directors into three classes, as nearly equal in number as possible, each of which, after an interim arrangement, will serve for three years, with one class being elected each year; (2) provide that directors may be removed only for cause and only with the approval of the holders of at least 80% of the voting power of the Company entitled to vote for the election of directors; (3) provide that any vacancy on the Board shall be filled by the remaining directors then in office, though less than a quorum; (4) provide that the size of the Board of Directors shall be not less than nine nor more than 15 directors, with the exact number of directors to be determined from time to time by the Board; (5) require that shareholder action be taken at an annual or special meeting of shareholders and prohibit shareholder

action by consent; (6) provide that special meetings of shareholders of the Company may be called only by the Company's Board of Directors pursuant to a resolution adopted by a majority of the entire Board, upon not less than __ nor more than __ days' written notice; and (7) increase the shareholder vote required to amend or repeal, or to adopt any provision inconsistent with, the foregoing amendments from a majority to 80% of the voting power of the Company.

The proposed amendments are being presented to shareholders of the Company for their approval as a single proposal. As more fully discussed below, the Board of Directors believes the proposed amendments, taken together, would, if adopted, effectively reduce the possibility that a third party could effect a sudden or suprise change in majority control of the Company's Board of Directors without the support of the incumbent Board.

Adoption of the proposed amendments may have significant effects on the ability of shareholders of the Company to change the composition of the incumbent Board of Directors and to benefit from certain transactions which are opposed by the incumbent Board. Accordingly, shareholders are urged to read carefully the following sections of this Proxy Statement, which describe the amendments and their purposes and effects, and Exhibit A hereto, which sets forth the full text of the proposed amendments, before voting on the proposed amendments.

Purposes and Effects of the Proposed Amendments

The Board of Directors of the Company is asking shareholders to consider and adopt the proposed amendments to the Certificate and conforming amendments to the By-Laws in order to discourage certain types of transactions, described below, which involve an actual or threatened change of control of the Company. The proposed amendments are designed to make it more difficult and time-consuming to change majority control of the Board and thus to reduce the vulnerability of the Company to an unsolicited proposal for the takeover of the Company, particularly a proposal that does not contemplate the acquisition of all of the Company's outstanding shares, or for the restructuring or sale of all or part of the Company. As more fully described below, the Board believes that, as a general rule, such proposals are not in the best interests of the Company and its shareholders.

There has been a recent trend towards the accumulation of substantial stock positions in public companies by third parties as a prelude to proposing a takeover or a restructuring or sale of all or part of the company or other similar extraordinary corporate action. Such actions are often undertaken by the third party without advance notice to or consultation with management of the company. In many cases, the purchaser seeks representation on the company's

Board of Directors in order to increase the likelihood that his proposal will be implemented by the company. If the company resists the efforts of the purchaser to obtain representation on the company's Board, he may commence a proxy contest to have himself or his nominees elected to the Board in place of certain directors, or the entire Board. In some cases, the purchaser may not truly be interested in taking over the Company, but uses the threat of a proxy fight and/or a bid to take over the Company as a means of forcing the company to repurchase his equity position at a substantial premium over market price.

The Board of Directors of the Company believes that the imminent threat of removal of the Company's management severely curtails its ability to negotiate effectively with such purchasers. Management is deprived of the time and information necessary to evaluate the takeover proposal, to study alternative proposals and to help ensure that the best price is obtained in any transaction involving the Company which may ultimately be undertaken. If the real purpose of a takeover bid is to force the Company to repurchase an accumulated stock interest at a premium price, management faces the risk that if it does not repurchase the purchaser's stock interest, the Company's business and management will be disrupted, perhaps irreparably. On the other hand, such a repurchase diverts

valuable corporate resources to the benefit of a single shareholder.

Takeovers or changes in management of the Company which are proposed and effected without prior consultation and negotiation with the Company's management are not necessarily detrimental to the Company and its shareholders. However, the Board feels that the benefits of seeking to protect its ability to negotiate with the proponent of an unfriendly or unsolicited proposal to take over or restructure the Company outweigh the disadvantages of discouraging such proposals.

The adoption of the proposed amendments would make more difficult or discourage a proxy contest or the assumption of control by a holder of a substantial block of the Company's stock or the removal of the incumbent Board and could thus have the effect of entrenching incumbent management. At the same time, the amendments would help ensure that the Board, if confronted by a surprise proposal from a third party who has recently acquired a block of the Company's stock, will have sufficient time to review the proposal and appropriate alternatives to the proposal and to seek a premium price for the shareholders.

The proposed amendments are intended to encourage persons seeking to acquire control of the Company to initiate

such an acquisition through arms'-length negotiations with the Company's management and Board of Directors. The amendments, if they are adopted, could also have the effect of discouraging a third party from making a tender offer or otherwise attempting to obtain control of the Company, even though such an attempt might be beneficial to the Company and its shareholders. In addition, since the amendments are designed to discourage accumulations of large blocks of the Company's stock by purchasers whose objective is to have such stock repurchased by the Company at a premium, adoption of the amendments could tend to reduce the temporary fluctuations in the market price of the Company's stock which are caused by such accumulations. Accordingly, shareholders could be deprived of certain opportunities to sell their stock at a temporarily higher market price.

[Statement regarding any rights of holders of outstanding Preferred Stock relating to election or removal of directors which differ from the foregoing]

[Description of any previously adopted anti-takeover provisions in charter or by-laws]

[Statement regarding stock ownership of officers and directors and potential to block actions requiring a supermajority vote under proposed amendments]

The Company does not have any class of authorized but unissued common or preferred stock with respect to which the Board of Directors retains the power to determine voting rights. The Company's Certificate of Incorporation does not permit cumulative voting in the election of directors. Accordingly, the holders of a majority of the outstanding shares entitled to vote for the election of directors can elect all of the directors then being elected at any annual or special meeting of the Company's shareholders.

The proposed amendments are permitted under [state corporation law] and are consistent with the rules of the New York Stock Exchange, upon which the Company's Common Stock is listed and traded. The amendments are not the result of any specific efforts of which the Company is aware to accumulate the Company's securities or to obtain control of the Company. The Board, which unanimously approved the amendments and recommended that they be submitted to the Company's shareholders for adoption, does not presently contemplate recommending the adoption of any further amendments to the Certificate or the By-Laws which would affect the ability of third parties to take over or change control of the Company.

Description of the Proposed Amendments

The full text of the proposed amendments is attached to this Proxy Statement as Exhibit A. The following description of the amendments is qualified in its entirety by reference to Exhibit A.

Classification of the Board of Directors. The By-Laws now provide that all directors are to be elected to the Company's Board of Directors annually for a term of one year. The Board has set the number of directors at __. The proposed amendments to Article A of the Certificate and Article X of the By-Laws provide that the Board shall be divided into three classes of directors, each class to be as nearly equal in number of directors as possible. If the proposed amendments are adopted, the Company's directors will be divided into three classes and __ directors will be elected for a term expiring at the 198_ Annual Meeting of Shareholders, __ directors will be elected for a term expiring at the 198_ Annual Meeting of Shareholders and the remaining __ directors will be elected for a term expiring at the 198_ Annual Meeting of Shareholders (in each case, until their respective successors are duly elected and qualified). Starting with the 198_ Annual Meeting of Shareholders, one class of directors will be elected each year for a three-year term.

The classification of directors will have the effect of making it more difficult to change the composition of the Board of Directors. At least two shareholder meetings, instead of one, will be required to effect a change in the majority control of the Board, except in the event of vacancies resulting from removal for cause or other reason (in which case the remaining directors will fill the vacancies so created -- see "Removal of Directors; Filling Vacancies on the Board of Directors" below). The longer time required to elect a majority of a classified Board will also help to assure continuity and stability of the Company's management and policies, since a majority of the directors at any given time will have prior experience as directors of the Company. It should also be noted that the classification provision will apply to every election of directors, whether or not a change in the Board would be beneficial to the Company and its shareholders and whether or not a majority of the Company's shareholders believes that such a change would be desirable.

Removal of Directors; Filling Vacancies on the Board of Directors. The proposed amendments provide that a director, or the entire Board of Directors, may be removed by the shareholders only for cause, whereas at present a director, or the entire Board of Directors, may be removed by the shareholders with or without cause. The amendments

also provide that the affirmative vote of the holders of at least 80% of the voting power of the shares entitled to vote for the election of directors would be required to remove a director, or the entire Board, from office. Currently, the vote required under the By-Laws (which is the same as the minimum vote required under the [state corporation law]) is a majority of the voting power of the shares entitled to be voted for the election of directors.

Currently, Article X of the By-Laws provides that a vacancy on the Board, including a vacancy created by an increase in the number of directors, may be filled by the remaining directors, though less than a quorum, or by the shareholders, and that the newly-elected director shall serve until the next annual meeting of shareholders. The proposed amendments to Article A of the Certificate and Article X of the By-Laws retain the provision that a vacancy on the Board occurring during the course of the year, including a vacancy created by an increase in the number of directors, may be filled by the remaining directors, but do not permit shareholders to fill such vacancies. In addition, the amendments provide that any new director elected to fill a vacancy on the Board will serve for the remainder of the full term of the class in which the vacancy occurred rather than until the next annual meeting of shareholders.

The provisions of the proposed amendments relating to the removal of directors and the filling of vacancies on the Board will preclude a third party from removing incumbent directors without cause and simultaneously gaining control of the Board by filling the vacancies created by removal with his own nominees. These provisions will also reduce the power of shareholders, even those with a majority interest in the Company, to remove incumbent directors and to fill vacancies on the Board. Under the proposed amendments, shareholders will have the power to remove directors for cause with an 80% vote, but only the directors will have the power to fill the vacancies created by such removal. Moreover, the Board's appointees will serve for the remainder of the removed directors' full terms.

Size of the Board of Directors. The Certificate does not currently contain any limitations on the size of the Company's Board of Directors. The By-Laws currently provide that the size of the Board shall be fixed from time to time by resolution of the Board, provided that the number of directors may not be less than three. The Board has set the number of directors at ____. The proposed amendments to Article A of the Certificate and Article X of the By-Laws provide that the Board of Directors shall consist of not less than nine nor more than 15 members, with the exact number of

directors to be fixed within the minimum and maximum limitations by resolution of a majority of the entire Board of Directors. The fixing of the maximum number of directors in the Certificate and By-Laws (together with the provision discussed above that newly created directorships are to be filled by the Board) would prevent a third party seeking majority representation on the Board of Directors from obtaining such representation simply by enlarging the Board and filling the new directorships created thereby with his own nominees.

Prohibition Against Shareholder Action by Written Consent. Pursuant to the [state corporation law], unless otherwise provided in the Certificate, any action required or permitted to be taken by shareholders of the Company may be taken without a meeting and without a shareholder vote if a written consent setting forth the action to be taken is signed by the holders of shares of outstanding stock having the requisite number of votes that would be necessary to authorize such action at a meeting of shareholders. The proposed amendments to the Certificate and By-Laws would require that shareholder action be taken at an annual or special meeting of shareholders called by the Board of Directors pursuant to a resolution adopted by a majority of the entire Board and would prohibit shareholder action by consent. Shareholders would not be permitted to call a special meeting

of shareholders or to require that the Board call such a special meeting.

The provisions of the proposed amendments prohibiting shareholder action by consent would give all the shareholders of the Company the opportunity to participate in determining any proposed action and would prevent the holders of a majority of the voting power of the Company from using the written consent procedure to take shareholder action. Moreover, a shareholder could not force shareholder consideration of a proposal over the opposition of the Board of Directors by calling a special meeting of shareholders prior to such time as the Board believed such consideration to be appropriate.

Increased Shareholder Vote for Amendment, Repeal, etc. of Proposed Amendments. Under [state] law, amendments of the Certificate require the approval of the holders of a majority of the outstanding stock entitled to vote thereon and of a majority of the outstanding stock of each class entitled to vote thereon as a class. [State] law also permits provisions in the Certificate which require a greater vote than the vote otherwise required by law for any corporate action. With respect to such supermajority provisions, [state] law requires that any amendment or modification thereof, whether direct or indirect, be approved by an equally

large shareholder vote. The proposed amendments would require the concurrence of the holders of at least 80% of the voting power of the Company entitled to vote for the election of directors for the amendment or repeal of, or the adoption of any provision inconsistent with, the proposed amendments discussed above.

The requirement of an increased shareholder vote is designed to prevent a shareholder with a majority of the voting power of the Company from avoiding the requirements of the proposed amendments by simply amending all of the provisions again. With respect to the provision requiring an 80% shareholder vote to remove directors, the increased shareholder vote is intended to confirm the [state] law provision requiring an equally large shareholder vote for any direct or indirect amendment or modification thereof.

Vote Required for Adoption of Proposed Amendments

Under [state corporation law], the affirmative vote of the holders of a majority of the shares of stock of the Company entitled to notice of and to vote at the Annual Meeting is required to adopt the proposed amendments to the Certificate and the By-Laws.

The Board of Directors recommends that shareholders vote FOR the proposed amendments to the Certificate and conforming amendments to the By-Laws.

Model Charter Provisions for Classified Board of Directors

ARTICLE A [ARTICLE X of the By-Laws]

Board of Directors

(a) Number, election and terms. The business and affairs of the Corporation shall be managed [by] [under the direction of] a Board of Directors consisting of not less than nine nor more than 15 persons. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board of Directors pursuant to a resolution adopted by a majority of the entire Board of Directors. At the 198_ Annual Meeting of Shareholders, the directors shall be divided into three classes, as nearly equal in number as possible, with the term of office of the first class to expire at the 198_ Annual Meeting of Shareholders, the term of office of the second class to expire at the 198_ Annual Meeting of Shareholders and the term of office of the third class to expire at the 198_ Annual Meeting of Shareholders. At each Annual Meeting of Shareholders following such initial classification and election, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the third succeeding Annual Meeting of Shareholders after their election.

(b) Newly created directorships and vacancies. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled by a majority vote of the directors then in office, and directors so chosen shall hold office for a term expiring at the Annual Meeting of Shareholders at which the term of the class to which they have been elected expires. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(c) Removal. Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 80% of the voting power of all of the shares of the Corporation entitled to vote for the election of directors.

(d) Amendment, repeal, etc. Notwithstanding anything contained in this Certificate of Incorporation [these By-Laws] to the contrary, the affirmative vote of the holders

of at least 80% of the voting power of all of the shares of the Corporation entitled to vote for the election of directors shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article A[X].

ARTICLE B [ARTICLE Y of the By-Laws]

Shareholder Action

Any action required or permitted to be taken by the shareholders of the Corporation must be effected at a duly called annual or special meeting of shareholders of the Corporation and may not be effected by any consent in writing by such shareholders. Special meetings of shareholders of the Corporation may be called only by the Board of Directors pursuant to a resolution approved by a majority of the entire Board of Directors, upon not less than __ nor more than __ days' written notice. Notwithstanding anything contained in this Certificate of Incorporation [these By-Laws] to the contrary, the affirmative vote of the holders of at least 80% of the voting power of all of the shares of the Corporation entitled to vote for the election of directors shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article B[Y].

Notes:

1. A classified Board of Directors may be prohibited

by applicable law. See, e.g., Idaho Business Corporation Act 30-1-37.

2. Certain state laws place limits on the number and size of classes of directors. See, e.g., New York Business Corporation Law 704 (two to four classes as nearly equal in number as possible; each class must have at least three directors); Florida General Corporation Act 607.114 (no more than four classes, as nearly equal in number as possible; term of office may be no longer than four years and at least one-fifth of the entire Board must be elected annually). In addition, the rules of the New York Stock Exchange state that the Exchange will refuse to authorize the listing of stock of a company with a Board divided into more than three classes, and that, if a company's Board is classified, classes should be of equal size and tenure and directors' terms should not exceed three years. NYSE Company Manual, p. A-280.

3. Certain state laws provide that a member of a classified Board may be removed only for cause. See, e.g., Delaware General Corporation Law

§141(k). Other state laws provide that shareholders have the power to remove directors without cause (as well as for cause), and do not permit charter provisions which restrict or nullify such power. See, e.g., Oklahoma Business Corporation Act §1.39; Oregon Business Corporations Act §57.193.

4. In cases where cumulative voting is permitted in the election of directors, the applicable state corporation law generally provides that a director may not be removed if the number of votes cast against his removal would be sufficient to elect him a director at an election of the entire Board.

5. Certain state laws provide that any directorship to be filled by reason of the removal of one or more directors by shareholders may be filled by shareholders. See, e.g., Montana Business Corporation Act §35-1-408(1); Utah Business Corporation Act §16-10-36; Wisconsin Business Corporation Law §180.34. Certain state laws provide that any directorship to be filled by reason of an increase in the number of directors shall be filled by shareholders. See, e.g., Nebraska Business

Corporation Act §21-2038; Vermont Business Corporation Act §1884.

6. Certain state laws provide that a director elected by the Board to a newly-created directorship may serve only until the next Annual Meeting of Shareholders. See, e.g., Kentucky Business Corporation Act §271A.190; South Dakota Business Corporation Act §47-5-8; West Virginia Corporation Act §31-1-22.

7. Many state laws require that a special meeting of shareholders be called at the request of a shareholder if that shareholder owns at least a specified minimum percentage of the outstanding stock of a company. See, e.g., Pennsylvania Business Corporation Law §501C (20%); Rhode Island Business Corporation Act §7-1.1-26 (10%); South Carolina Business Corporation Act §33-11-30(d)(4) (10% or less).

8. Many state laws require that shareholder action without a meeting be effected by unanimous written consent, thereby effectively prohibiting the use of the consent procedure in a widely-held company. See, e.g., New York Business Corporation Law §615; South Dakota Business Corporation Act §47-4-4; Wisconsin Business Corporation Law §180.91.

ANNEX II

Model Proxy Statement Disclosure for Adoption of Fair Price Provisions

Proposed Amendment to the Company's Certificate of Incorporation

General

The Company's Board of Directors (the "Board") has unanimously approved an amendment (an "Amendment") to the Company's Certificate of Incorporation (the "Certificate") adding a new Article X to the Certificate and has voted to recommend that the Company's stockholders consider and approve the Amendment. In general, the Amendment would require the approval by the holders of 80% of the voting power of the outstanding capital stock of the Company entitled to vote generally in the election of directors as a condition for mergers and certain other business combinations of the Company ("Business Combinations") with any holder of more than 10% of such voting power (an "Interested Stockholder") unless the transaction is either approved by at least a majority of the members of the Board who are unaffiliated with the Interested Stockholder and were directors before the Interested Stockholder became an Interested Stockholder (the "Continuing Directors") or certain minimum price and procedural requirements are met. The complete text of the Amendment is attached to this Proxy Statement as Exhibit A.

The Board has observed that it has become a relatively common practice in corporate takeovers to pay cash to acquire a controlling equity interest in a company and then to acquire the remaining equity interest in the company by paying the balance of the stockholders a price for their shares which is lower than the price paid to acquire control and/or is in a less desirable form (e.g., securities of the purchaser instead of cash). For example, in the recent tender offer by Martin Marietta Corporation for The Bendix Corporation, Martin Marietta offered $75 per share in cash for 50% of the Bendix shares and stated its intention to acquire the remaining 50% for securities worth about $55 per share in a second-step merger. It is generally the case that in two-step acquisitions such as the Martin Marietta-Bendix transaction, arbitrageurs and professional investors, because of their sophistication and expertise in the takeover area, can take advantage of the more lucrative first-step tender offer, while many long-term stockholders must accept the price paid in the second-step merger. The Board is of the view that such "two-tier pricing" works to the disadvantage of long-term stockholders and gives arbitrageurs and professional investors an unfair advantage over such stockholders in a takeover situation.

The Amendment is designed to prevent a purchaser from utilizing two-tier pricing and similar inequitable

tactics in the event of an attempt to take over the Company. The Amendment is not designed to prevent or discourage tender offers for the Company. It does not impede an offer for at least 80% of the Company in which each stockholder receives substantially the same price for his shares as each other stockholder.

The Board believes that the Company has a bright future and that the Company's stockholders will be best served if the Company remains independent. It is the intention of the Board and the Company's management to do everything possible to achieve the objective of maximizing the long-term interests of the stockholders by remaining independent. However, it is not the purpose of the Amendment to further this objective. Rather, the Amendment is designed to help assure that if, despite the Company's best efforts to remain independent, the Company is nevertheless taken over, each stockholder will be treated fairly vis-a-vis every other stockholder and that arbitrageurs and professional investors will not profit at the expense of the Company's long-term public stockholders.

It should be noted that while the Amendment is designed to help assure fair treatment of all stockholders vis-a-vis other stockholders in the event of a takeover, it is not the purpose of the Amendment to assure that stockholders will receive a premium price for their shares in

a takeover. Accordingly, the Board is of the view that the adoption of the Amendment would not preclude the Board's opposition to any future takeover proposal which it believes not to be in the best interests of the Company and its stockholders, whether or not such a proposal satisfies the minimum price criteria and procedural requirements of the Amendment.

The Amendment is permitted under [state corporation law] and is consistent with the rules of the New York Stock Exchange, upon which the Company's Common Stock is listed and traded. The Amendment is not the result of any specific efforts of which the Company is aware to accumulate the Company's stock or to obtain control of the Company. The Board, which unanimously approved the Amendment and recommended that it be submitted to the Company's stockholders for approval, does not presently contemplate recommending the adoption of any further amendments to the Certificate or to the By-Laws of the Company which would affect the ability of third parties to take over or change control of the Company.

Adoption of the Amendment may have significant effects on the ability of stockholders of the Company to benefit from certain transactions which are opposed by the incumbent Board of Directors. Accordingly, stockholders are urged to read carefully the following sections of this

Proxy Statement, which discuss the advantages and disadvantages of adopting the Amendment and describe more fully the specific provisions of the Amendment, and Exhibit A hereto, which sets forth the full text of the Amendment, before voting on the Amendment.

Considerations in Support of the Proposed Amendment

As discussed above, a number of companies have recently been the subject of tender offers for, or other acquisitions of, more than 10% but less than 80% of their outstanding stock. In many cases, such purchases have been followed by Business Combinations in which the tender offeror or other purchaser has paid a lower price for the remaining outstanding shares than the price it paid in acquiring its original interest in the Company and has paid a less desirable form of consideration. Federal securities laws and regulations applicable to Business Combinations govern the disclosure required to be made to minority stockholders in order to consummate such a transaction but do not assure stockholders that the terms of the Business Combination (i.e., what stockholders will receive for their shares) will be fair to them or that they can effectively prevent its consummation. Moreover, the statutory right of the remaining stockholders of the Company to dissent in connection with certain Business Combinations and receive the "fair value" of

their shares in cash may involve significant expense to dissenting stockholders and not be meaningful, because the appraisal standard to be applied under [state] law may not recognize the adverse influence of the Interested Stockholder's controlling stock ownership on the market value of the shares in the hands of the public or take into account any appreciation in the stock price due to anticipation of the Business Combination. In the case of many Business Combinations, including reclassification or recapitalization of the outstanding shares of any class of the Company's stock, the statutory right of dissent may not be available at all.

The Amendment is intended to meet partially these gaps in the Federal and state laws and to prevent certain of the potential inequities of Business Combinations which involve two or more steps by requiring that in order to complete a Business Combination which is not approved by a majority of the Continuing Directors, such purchaser must either acquire (or assure itself of obtaining the affirmative votes of) at least 80% of the voting power of the Company's outstanding capital stock entitled to vote generally in the election of directors (the "Voting Stock") prior to the Business Combination, or be prepared to meet the minimum price and procedural requirements of the Amendment. The Amendment is also designed to protect those stockholders who have not

tendered or otherwise sold their shares to a purchaser who is attempting to acquire control by ensuring that at least the same price and form of consideration is paid to such stockholders in a Business Combination as was paid to stockholders in the initial step of the acquisition. In the absence of the Amendment, a successful purchaser who acquired control of the Company could subsequently, by virtue of such control, force minority stockholders to sell or exchange their shares at a price which would not reflect any premium such purchaser may have paid in order to acquire its controlling interest but would instead effectively be set by such purchaser. Such a price might very well be lower than the price paid by such purchaser in acquiring control, or in a less desirable form (e.g., securities of the purchaser instead of cash).

In many situations, the minimum price and procedural requirements of the Amendment would require that a purchaser pay stockholders a higher price for their shares and/or structure the transaction differently than would be the case without the Amendment. Accordingly, the Board believes that, to the extent a Business Combination were involved as part of a plan to acquire control of the Company, adoption of the Amendment would increase the likelihood that a purchaser would negotiate directly with the Company. The Board believes that it is in a better position than the individual stockholders of the Company to negotiate effectively

on behalf of all stockholders in that the Board is likely to be more knowledgeable than any individual stockholder in assessing the business and prospects of the Company. Accordingly, the Board is of the view that negotiations between the Company and the purchaser would increase the likelihood that stockholders would receive a higher price for their shares from anyone desiring to obtain control of the Company through a Business Combination or otherwise.

Although not all acquisitions of the Company's stock are made with the objective of acquiring control of the Company through a subsequent Business Combination, in most cases a purchaser desires to have the option to consummate such a Business Combination. Assuming that to be the case, the Amendment would tend to discourage purchasers whose objective is to seek control of the Company at a relatively cheap price, since acquiring the remaining equity interest would not be assured unless the minimum fair price and procedural requirements were satisfied or a majority of the Continuing Directors were to approve the transaction. The Amendment should also discourage the accumulation of large blocks of the Company's stock, which the Board believes to be disruptive to the stability of the Company's vitally important relationships with its employees, customers and major lenders, and which can sometimes precipitate a change

of control of the Company on terms unfavorable to the Company's other stockholders.

[Description of interaction of Amendment with any existing anti-takeover provisions in Certificate or By-Laws.]

Considerations Against the Proposed Amendment

Tender offers or other non-open market acquisitions of stock are usually made at prices above the prevailing market price of a company's stock. In addition, acquisitions of stock by persons attempting to acquire control through market purchases may cause the market price of the stock to reach levels which are higher than would otherwise be the case. The Amendment may discourage such purchases, particularly those of less than all the Company's shares, and may thereby deprive holders of the Company's stock of an opportunity to sell their stock at a temporarily higher market price. Because of the higher percentage requirements for stockholder approval of any subsequent Business Combination and the possibility of having to pay a higher price to other stockholders in such a Business Combination, it may become more costly for a purchaser to acquire control of the Company. The Amendment may therefore decrease the likelihood that a tender offer will be made for less than 80% of the voting power of the Voting Stock and, as a result, may adversely affect those stockholders who would desire to participate in such a tender

offer. A potential purchaser of stock seeking to obtain control may also be discouraged from purchasing stock because an 80% stockholder vote would be required in order to change or eliminate these provisions. It should be noted that the provisions of the Amendment would not necessarily discourage persons who might be willing to seek control by acquiring 80% of the voting power of the Voting Stock even though they have no intention of acquiring the remaining 20% minority. However, as noted above, such transactions are rare.

In certain cases, the Amendment's minimum price provisions, while providing objective pricing criteria, could be arbitrary and not indicative of value. In addition, an Interested Stockholder may be unable, as a practical matter, to comply with all of the procedural requirements of the Amendment. In these circumstances, unless a potential purchaser were willing to purchase 80% of the voting power of the Voting Stock as the first step in a Business Combination, it would be forced either to negotiate with the Board and offer terms acceptable to it or to abandon the proposed Business Combination.

Another effect of adoption of the Amendment would be to give veto power to the holders of a minority of the voting power of the Voting Stock with respect to a Business

Combination which is opposed by the Board but which a majority of stockholders may believe to be desirable and beneficial. In addition, since only the Continuing Directors will have the authority to reduce to a simple majority or eliminate the 80% stockholder vote required for Business Combinations, the Amendment may tend to insulate current management against the possibility of removal in the event of a takeover bid.

[Description of interaction of Amendment with any existing anti-takeover provisions in Certificate or By-Laws.]

[Statement regarding stock ownership (including stock subject to options) of officers and directors and potential to block Business Combinations under provisions of the Amendment.]

Description of the Proposed Amendment

The full text of the Amendment is attached to this Proxy Statement as Exhibit A. The following description of the Amendment is qualified in its entirety by reference to Exhibit A.

80% Vote Required for Certain Business Combinations. At present, mergers, consolidations, sales of substantially all of the assets of the Company, the adoption of a plan of

dissolution of the Company and reclassifications of securities and recapitalizations of the Company involving amendments to the Certificate must be approved by the vote of the holders of [a majority] of the voting power of the Voting Stock [and class vote of outstanding preferred stock]. Certain other transactions, such as sales of less than substantially all of the assets of the Company, certain mergers involving a wholly-owned subsidiary of the Company, and recapitalizations not involving any amendments to the Certificate do not require stockholder approval. The Amendment would require the approval of the holders of 80% of the voting power of the Voting Stock [in addition to any class vote] as a condition of specified transactions with an Interested Stockholder, except in cases in which either certain price criteria and procedural requirements are satisfied or the transaction is recommended to the stockholders by a majority of the Continuing Directors. In the event the price criteria and procedural requirements were met or the requisite approval of the Board were given with respect to a particular Business Combination, the normal requirements of [state] law would apply, and, accordingly, only a [majority] vote of the Voting Stock [and class vote] would be required, or, for certain transactions, as noted above, no stockholder vote would be necessary. Thus, depending upon the circumstances, the Amendment would require an 80% stockholder vote for a Business Combination in cases in

which either a [majority] vote or no vote is presently required under [state] law and the Certificate.

An "Interested Stockholder" is defined in the Amendment as anyone who is the beneficial owner of more than 10% of the voting power of the Voting Stock. The term "beneficial owner" includes persons directly and indirectly owning or having the right to acquire or vote the stock. At the present time the Company is not aware of the existence of any stockholder or group of stockholders which would be an "Interested Stockholder".

A "Business Combination" includes the following transactions: (a) a merger or consolidation of the Company or any subsidiary with an Interested Stockholder; (b) the sale or other disposition by the Company or a subsidiary of assets of $1,000,000 or more if an Interested Stockholder is a party to the transaction; (c) the issuance of stock or other securities of the Company or of a subsidiary to an Interested Stockholder in exchange for cash or property (including stock or other securities) of $1,000,000 or more; (d) the adoption of any plan or proposal for the liquidation or dissolution of the Company proposed by or on behalf of an Interested Stockholder; or (e) any reclassification of securities, recapitalization, merger with a subsidiary or other

transaction which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding stock of any class of the Company or a subsidiary owned by an Interested Stockholder.

A "Continuing Director" is any member of the Board who is not affiliated with an Interested Stockholder and was a director of the Company prior to the time the Interested Stockholder became an Interested Stockholder, and any successor to such Continuing Director who is not affiliated with an Interested Stockholder and was recommended by a majority of the Continuing Directors then on the Board.

Exceptions to Higher Vote Requirements. The 80% affirmative stockholder vote would not be required if the transaction has been approved by a majority of the Continuing Directors or if all of the minimum price criteria and procedural requirements described below are satisfied.

(a) Minimum Price Criteria. In a Business Combination involving cash or other consideration being paid to the Company's stockholders, the consideration would be required to be either cash or the same type of consideration used by the Interested Stockholder in acquiring the largest portion of its Voting Stock prior to the first public announcement of the proposed Business Combination. In addition, the fair market value (as calculated in accordance with the Amendment)

of such consideration would be required to meet certain minimum price criteria, described below.

In the case of payments to holders of the Company's Common Stock, the fair market value per share of such payments would have to be at least equal in value to the highest of (i) the highest per share price paid by the Interested Stockholder in acquiring any shares of the Company's Common Stock during the two years prior to the first public announcement of the proposed Business Combination or in the transaction in which it became an Interested Stockholder (whichever is higher), (ii) the fair market value per share of Common Stock on the date of the first public announcement of the proposed Business Combination (the "Announcement Date") or on the date on which the Interested Stockholder became an Interested Stockholder (the "Determination Date"), whichever is higher, and (iii) a price equal to the fair market value per share calculated pursuant to clause (ii) above times the highest premium over fair market value the Interested Stockholder has paid in acquiring any shares of the Common Stock during the two-year period prior to the Announcement Date. The premium would be calculated by dividing the highest per share price paid by the Interested Stockholder for any of its shares of Common Stock during such two-year period by the fair market value per share of the Common Stock on the first date during

such period that the Interested Stockholder acquired any shares of Common Stock. For example, if the acquisition by an Interested Stockholder of his Common Stock interest was by cash purchases in open market transactions and the highest price paid per share of Common Stock during the previous two years was $11, and assuming that the fair market values per share of Common Stock on the date of the Interested Stockholder's first purchase of shares of Common Stock, on the Determination Date and on the Announcement Date were $10, $10.50 and $12, respectively, the amount required to be paid to the stockholders would be the amount per share in cash equal to the highest of (i) $11 (the highest price paid), (ii) $12 (fair market value on the Announcement Date) and (iii) $13.20 (fair market value of $12 times a premium of 1.1, calculated by dividing $11 by $10). Accordingly, in order to comply with the Amendment's minimum price criteria, the Interested Stockholder would be required to pay at least $13.20 per share in cash to holders of Common Stock in the Business Combination. If the Interested Stockholder did not purchase any shares of Common Stock prior to becoming an Interested Stockholder, the minimum price under the Amendment would be fair market value on the Announcement Date or on the Determination Date, whichever is higher, or $12 per share in cash.

In the case of payments to holders of any class of the Company's voting preferred stock (other than classes of

voting preferred stock issued to and held solely by institutional investors, which stock is not covered by the Amendment), the fair market value per share of such payments would have to be at least equal to the highest of (i) the highest per share price paid by the Interested Stockholder in acquiring any shares of such class of preferred stock during the two years prior to the Announcement Date or in the transaction in which it became an Interested Stockholder (whichever is higher), (ii) the highest preferential amount per share to which the holders of such class of preferred stock are entitled in the event of a voluntary or involuntary liquidation of the Company, (iii) the fair market value per share of such class of preferred stock on the Announcement Date or on the Determination Date (whichever is higher) and (iv) a price equal to the fair market value per share calculated pursuant to clause (iii) above times the highest premium over fair market value the Interested Stockholder has paid in acquiring any shares of such class of preferred stock during the two-year period prior to the Announcement Date. The premium would be calculated by dividing the highest per share price paid by the Interested Stockholder for its shares of such class of preferred stock during such two-year period by the fair market value per share of such class of preferred stock on the first date during such period that the Interested Stockholder acquired any shares of such class of preferred stock. For example, if the highest price per share paid by the Interested

Stockholder in acquiring shares of a class of the Company's preferred stock on the open market was $13.50 and the highest preferential amount for the class of preferred stock in question was $17 per share, and assuming that the fair market values per share of such class of preferred stock on the date of the Interested Stockholder's first purchase of shares of such class of Preferred Stock, on the Determination Date and on the Announcement Date were $10, $12 and $14, respectively, the amount required to be paid to holders of such class of preferred stock would be the highest of (i) $13.50 (the highest price paid), (ii) $17 (the highest preferential amount), (iii) $14 (fair market value on the Announcement Date) and (iv) $18.90 (fair market value of $14 times a premium of 1.35, calculated by dividing $13.50 by $10). Accordingly, in order to comply with the Amendment's minimum price criteria, the Interested Stockholder would be required to pay at least $18.90 per share in cash to holders of such class of preferred stock in the Business Combination. If the Interested Stockholder did not purchase any shares of such class of preferred stock prior to becoming an Interested Stockholder, the minimum price under the Amendment would be the higher of the fair market value or the highest preferential amount, or $17 per share in cash.

It should be noted that under the Amendment the Interested Stockholder would be required to meet the minimum

price criteria with respect to each class of the Voting Stock (other than those classes issued to and held solely by institutional investors), whether or not the Interested Stockholder owned shares of that class prior to proposing the Business Combination. If the minimum price criteria and the procedural requirements (discussed below) were not met with respect to each class of Voting Stock, then an 80% vote of stockholders would be required to approve the Business Combination unless the transaction were approved by a majority of the Continuing Directors. It should also be noted that if the transaction does not involve any cash or other property being received by any of the other stockholders, such as a sale of assets or an issuance of the Company's securities to an Interested Stockholder, then the price criteria discussed above would not apply and an 80% vote of stockholders would be required unless the transaction were approved by a majority of the Continuing Directors.

(b) Procedural Requirements. Under the Amendment, in order to avoid the 80% stockholder vote requirement, after an Interested Stockholder became an Interested Stockholder it would have to comply with the procedural requirements described below, as well as the minimum price criteria, unless the Business Combination were approved by a majority of the Continuing Directors.

Under the Amendment, an 80% stockholder vote would be required (unless a majority of the Continuing Directors approved the Business Combination) if the Company, after the Interested Stockholder became an Interested Stockholder, failed to pay full quarterly dividends on its preferred stock or reduced the rate of dividends paid on its Common Stock, unless such failure or reduction was approved by a majority of the Continuing Directors. This provision is designed to prevent an Interested Stockholder from attempting to depress the market price of the Company's stock prior to proposing a Business Combination by reducing dividends on the Company's stock, and thereby reducing the consideration required to be paid pursuant to the minimum price provisions of the Amendment.

The Amendment would also require an 80% stockholder vote (unless a majority of the Continuing Directors approved the Business Combination) if the Interested Stockholder acquired any additional shares of the Voting Stock, directly from the Company or otherwise, in any transaction subsequent to the transaction pursuant to which it became an Interested Stockholder. This provision is intended to prevent an Interested Stockholder from purchasing additional shares of the Voting Stock at prices which are lower than those set by the minimum price criteria of the Amendment.

Under the Amendment, the receipt by the Interested Stockholder at any time after it became an Interested Stockholder, whether in connection with the proposed Business Combination or otherwise, of the benefit of any loans or other financial assistance or tax advantages provided by the Company (other than proportionately as a stockholder) would trigger the 80% stockholder vote requirement (unless the Business Combination were approved by a majority of the Continuing Directors). This provision is intended to deter an Interested Stockholder from self-dealing or otherwise taking advantage of its equity position in the Company by using the Company's resources to finance the proposed Business Combination or otherwise for its own purposes in a manner not proportionately available to all stockholders.

Under the Amendment, in order to avoid the 80% stockholder vote requirement, a proxy or information statement disclosing the terms and conditions of the proposed Business Combination complying with the requirements of the proxy rules promulgated under the Securities Exchange Act of 1934 would have to be mailed to all stockholders of the Company at least 30 days prior to the consummation of a Business Combination, unless the Business Combination were approved by a majority of the Continuing Directors. This provision is intended to ensure that the Company's stockholders would

shall require the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), voting together as a single class (it being understood that for purposes of this Article X, each share of the Voting Stock shall have the number of votes granted to it pursuant to Article __ of this Certificate of Incorporation). Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified, by law or in any agreement with any national securities exchange or otherwise.

B. Definition of "Business Combination". The term "Business Combination" as used in this Article X shall mean any transaction which is referred to in any one or more of clauses (i) through (v) of paragraph A of this Section 1.

Section 2. When Higher Vote is Not Required. The provisions of Section 1 of this Article X shall not be applicable to any particular Business Combination, and such Business Combination shall require only such affirmative vote as is required by law and any other provision of this Certificate of Incorporation, if all of the conditions specified in either of the following paragraphs A and B are met:

A. Approval by Continuing Directors. The Business Combination shall have been approved by a majority of the Continuing Directors (as hereinafter defined).

B. Price and Procedure Requirements. All of the following conditions shall have been met:

(i) The aggregate amount of the cash and the Fair Market Value (as hereinafter defined) as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of Common Stock in such Business Combination shall be at least equal to the highest of the following:

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it (1) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination (the "Announcement Date") or (2) in the transaction in which it became an Interested Stockholder, whichever is higher;

(b) the Fair Market Value per share of Common Stock on the Announcement Date or on the date on which the Interested Stockholder became an Interested Stockholder (such latter date is referred to in this Article X as the "Determination Date"), whichever is higher; and

(c) (if applicable) the price per share equal to the Fair Market Value per share of Common Stock determined pursuant to paragraph B(i)(b) above, multiplied by the ratio of (1) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it within the two-year period immediately prior to the Announcement Date to (2) the Fair Market Value per share of Common Stock on the first day in such two-year period upon which the Interested Stockholder acquired any shares of Common Stock.

(ii) The aggregate amount of the cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of shares of any other class of out-

standing Voting Stock (other than Institutional Voting Stock, as hereinafter defined) shall be at least equal to the highest of the following (it being intended that the requirements of this paragraph B(ii) shall be required to be met with respect to every class of outstanding Voting Stock (other than Institutional Voting Stock), whether or not the Interested Stockholder has previously acquired any shares of a particular class of Voting Stock):

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of such class of Voting Stock acquired by it (1) within the two-year period immediately prior to the Announcement Date or (2) in the transaction in which it became an Interested Stockholder, whichever is higher;

(b) (if applicable) the highest preferential amount per share to which the holders of shares of such class of Voting Stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

(c) the Fair Market Value per share of such class of Voting Stock on the Announcement Date or on the Determination Date, whichever is higher; and

(d) (if applicable) the price per share equal to the Fair Market Value per share of such class of Voting Stock determined pursuant to paragraph B(ii)(c) above, multiplied by the ratio of (1) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of such class of Voting Stock acquired by it within the two-year period immediately prior to the Announcement Date to (2) the Fair Market Value per share of such class of Voting Stock on the first day in such two-year period upon which the Interested Stockholder acquired any shares of such class of Voting Stock.

(iii) The consideration to be received by holders of a particular class of outstanding Voting Stock (including Common Stock) shall be in cash or in the same form as the Interested Stockholder has previously paid for shares of such class of Voting Stock. If the Interested Stockholder has

paid for shares of any class of Voting Stock with varying forms of consideration, the form of consideration for such class of Voting Stock shall be either cash or the form used to acquire the largest number of shares of such class of Voting Stock previously acquired by it.

(iv) After such Interested Stockholder has become an Interested Stockholder and prior to the consummation of such Business Combination: (a) except as approved by a majority of the Continuing Directors, there shall have been no failure to declare and pay at the regular date therefor any full quarterly dividends (whether or not cumulative) on the outstanding Preferred Stock; (b) there shall have been (1) no reduction in the annual rate of dividends paid on the Common Stock (except as necessary to reflect any subdivision of the Common Stock), except as approved by a majority of the Continuing Directors, and (2) an increase in such annual rate of dividends as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization or any similar transaction which has the effect of reducing the number of outstanding shares of the Common Stock, unless the failure so to increase such annual rate is approved by a majority of the Continuing Directors; and

(c) such Interested Stockholder shall have not become the beneficial owner of any additional shares of Voting Stock except as part of the transaction which results in such Interested Stockholder becoming an Interested Stockholder.

(v) After such Interested Stockholder has become an Interested Stockholder, such Interested Stockholder shall not have received the benefit, directly or indirectly (except proportionately as a stockholder), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the Corporation, whether in anticipation of or in connection with such Business Combination or otherwise.

(vi) A proxy or information statement describing the proposed Business Combination and complying with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules or regulations) shall be mailed to public stockholders of the Corporation at least 30 days prior to the consummation of such Business

Combination (whether or not such proxy or information statement is required to be mailed pursuant to such Act or subsequent provisions).

Section 3. Certain Definitions. For the purposes of this Article X:

A. A "person" shall mean any individual, firm, corporation or other entity.

B. "Interested Stockholder" shall mean any person (other than the Corporation or any Subsidiary) who or which:

(i) is the beneficial owner, directly or indirectly, of more than 10% of the voting power of the outstanding Voting Stock; or

(ii) is an Affiliate of the Corporation and at any time within the two-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding Voting Stock; or

(iii) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were

at any time within the two-year period immediately prior to the date in question beneficially owned by any Interested Stockholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

C. A person shall be a "beneficial owner" of any Voting Stock:

(i) which such person or any of its Affiliates or Associates (as hereinafter defined) beneficially owns, directly or indirectly; or

(ii) which such person or any of its Affiliates or Associates has (a) the right to acquire (whether such right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (b) the right to vote pursuant to any agreement, arrangement or understanding; or

(iii) which are beneficially owned, directly or indirectly, by any other person with which such

person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of Voting Stock.

D. For the purposes of determining whether a person is an Interested Stockholder pursuant to paragraph B of this Section 3, the number of shares of Voting Stock deemed to be outstanding shall include shares deemed owned through application of paragraph C of this Section 3 but shall not include any other shares of Voting Stock which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

E. "Affiliate" or "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on _____, 198_.

F. "Subsidiary" means any corporation of which a majority of any class of equity security is owned, directly or indirectly, by the Corporation; provided, however, that for the purposes of the definition of Interested Stockholder set forth in paragraph B of this

section 3, the term "Subsidiary" shall mean only a corporation of which a majority of each class of equity security is owned, directly or indirectly, by the Corporation.

G. "Continuing Director" means any member of the Board of Directors of the Corporation (the "Board") who is unaffiliated with the Interested Stockholder and was a member of the Board prior to the time that the Interested Stockholder became an Interested Stockholder, and any successor of a Continuing Director who is unaffiliated with the Interested Stockholder and is recommended to succeed a Continuing Director by a majority of Continuing Directors then on the Board.

H. "Fair Market Value" means: (i) in the case of stock, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of such stock on the Composite Tape for New York Stock Exchange-Listed Stocks, or, if such stock is not quoted on the Composite Tape, on the New York Stock Exchange, or, if such stock is not listed on such Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is

not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by the Board in good faith; and (ii) in the case of property other than cash or stock, the fair market value of such property on the date in question as determined by the Board in good faith.

I. "Institutional Voting Stock" shall mean any class of Voting Stock which was issued to and continues to be held solely by one or more insurance companies, pension funds, commercial banks, savings banks or similar financial institutions or institutional investors.

J. In the event of any Business Combination in which the Corporation survives, the phrase "other consideration to be received" as used in paragraphs B(i) and (ii) of Section 2 of this Article X shall include the shares of Common Stock and/or the shares of any other class of outstanding Voting Stock retained by the holders of such shares.

the directors of the Corporation shall have the power and duty to determine for the purposes of this Article X, on the basis of information known to them after reasonable inquiry, (A) whether a person is an Interested Stockholder, (B) the number of shares of Voting Stock beneficially owned by any person, (C) whether a person is an Affiliate or Associate of another, (D) whether a class of Voting Stock is Institutional Voting Stock and (E) whether the assets which are the subject of any Business Combination have, or the consideration to be received for the issuance or transfer of securities by the Corporation or any Subsidiary in any Business Combination has, an aggregate Fair Market Value of $1,000,000 or more.

Section 5. No Effect on Fiduciary Obligations of Interested Stockholders. Nothing contained in this Article X shall be construed to relieve any Interested Stockholder from any fiduciary obligation imposed by law.

Section 6. Amendment, Repeal, etc. Notwithstanding any other provisions of this Certificate of Incorporation or the By-Laws of the Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-Laws of the Corporation), the affirmative vote of the holders of 80% or more of the voting power of the shares of the then outstanding Voting Stock, voting together as a single class, shall be required to amend

or repeal, or adopt any provisions inconsistent with, this Article X of this Certificate of Incorporation.

Notes:

1. The following companies, among others, have amended their charters to include "fair price" provisions similar to the model provisions described herein:

Anchor Hocking Corporation (1979)
Bache Group Inc. (1979)
Chicago Pneumatic Tool Company (1975)
The Coastal Corporation (1982)
Diamond International Corporation (1979)
Federal-Mogul Corporation (1980)
Foster Wheeler Corporation (1980)
Masco Corporation (1981)
The Pacific Lumber Company (1981)
Quaker State Oil Refining Corporation (1979)
U S Air, Inc. (1980)
Washington Steel Corporation (1979)

The fair price provisions adopted by the companies above define an Interested Stockholder as the owner of from 10% to 30% of the company's stock. The requisite vote for Business Combinations varies from 75% to 95%.

2. It should be noted that in the event a company has a staggered board of directors, together with related charter provisions which effectively prevent an Interested Stockholder from changing the composition of the board of directors in a short period of time, the concept of Continuing Directors loses some of its importance. In such a case, a requirement that two-thirds (or a majority) of the entire board of directors approve the Business Combination may provide sufficient protection. If a company does not have charter provisions requiring an 80% stockholder vote for removal of directors, it becomes important to provide in the fair price amendment that if the Interested Stockholder removes Continuing Directors prior to obtaining approval of the Business Combination by a majority of the Continuing Directors, the 80% stockholder vote will be triggered, notwithstanding such approval by the Continuing Directors.

3. The model provisions require that, in the absence of board approval, all classes of a company's voting stock, other than classes which were issued to and continue to be held solely by institutional investors, be provided for in a Business Combination. This requirement is intended to prevent a situation in which the Common Stock is acquired but the publicly-held Preferred Stock remains outstanding and thus to assure that all classes of publicly-held voting stock benefit from the Business Combination.

4. In the context of a three-step transaction (i.e., open-market purchases followed by a tender offer and a subsequent merger) in which more than 10% of the company's stock is acquired in the first step, the 80% vote requirement will automatically apply in the absence of board approval of the Business Combination (unless the offeror owns at least 80% of the outstanding voting stock after the offer). This result follows from requirement of an 80% stockholder vote in the event there are any additional purchases of stock by an Interested Stockholder after it becomes an Interested Stockholder.

ANNEX III

Model By-Law Provision Regarding Stockholder Action By Written Consent

ARTICLE X

Consents to Corporate Action

Section 1. Record Date. The record date for determining stockholders entitled to express consent to corporate action in writing without a meeting shall be fixed by the Board of Directors of the Company (the "Board"). Any stockholder seeking to have the stockholders authorize or take corporate action by written consent without a meeting shall, by written notice, request the board of directors to fix a record date. The Board shall, upon receipt of such a request, fix the record date as the 15th day following receipt of the request or such later date as may be specified by such stockholder. If the record date falls on a Saturday, Sunday or legal holiday, the record date shall be the day next following which is not a Saturday, Sunday or legal holiday.

Section 2. Date of Consent. The date for determining if an action has been consented to by the holder or holders of shares of outstanding stock of the Company having the requisite voting power to authorize or take the action specified therein (the "Consent Date") shall be the 31st day after the date on which materials soliciting consents are mailed to stockholders of the Company or, if no such materials are required to be mailed under applicable law, the 31st day following the record date fixed by the Board pursuant to Section 1 of this Article X. If the Consent Date falls on a

Saturday, Sunday or legal holiday, the Consent Date shall be the day next following which is not a Saturday, Sunday or legal holiday.

Section 3. Procedures. In the event of the delivery to the Company of a written consent or consents purporting to authorize or take corporate action and/or related revocations (each such written consent and related revocation is referred to in this Article X as a "Consent"), the Secretary of the Company shall provide for the safe-keeping of such Consent and shall conduct such reasonable investigation as he deems necessary or appropriate for the purpose of ascertaining the validity of such Consent and all matters incident thereto, including, without limitation, whether the holders of shares having the requisite voting power to authorize or take the action specified in the Consent have given consent; provided, however, that if the corporate action to which the Consent relates is the removal or replacement of one or more members of the Board, the Secretary of the Company shall designate two persons, who may not be members of the Board, to serve as Inspectors with respect to such Consent and such Inspectors shall discharge the functions of the Secretary of the Company under this Section 3. If after such investigation the Secretary or the Inspectors (as the case may be) shall determine that the Consent is valid, that fact shall be certified on

the records of the Company kept for the purpose of recording the proceedings of meetings of stockholders, and the Consent shall be filed in such records, at which time the Consent shall become effective as stockholder action; provided, however, that neither the Secretary nor the Inspectors (as the case may be) shall make such certification or filing, and the Consent shall not become effective as stockholder action, until the final termination of any proceedings which may have been commenced in the Court of Chancery of the State of Delaware or any other court of competent jurisdiction for an adjudication of any legal issues incident to determining the validity of the Consent, unless and until such Court shall have determined that such proceedings are not being pursued expeditiously and in good faith. In conducting the investigation required by this Section 3, the Secretary or the Inspectors (as the case may be) may, at the expense of the Company, retain special legal counsel and any other necessary or appropriate professional advisors, and such other personnel as they may deem necessary or appropriate, to assist them.