TF-284

State of Delaware

Office of the Secretary of State

PAGE 1

PLAINTIFF'S EXHIBIT

HW-558

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"HARBISON-WALKER REFRACTORIES COMPANY", A PENNSYLVANIA CORPORATION,

WITH AND INTO "DRESSER INDUSTRIES, INC." UNDER THE NAME OF "DRESSER INDUSTRIES, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-SIXTH DAY OF OCTOBER, A.D. 1967, AT 10:40 O'CLOCK A.M.

EXHIBIT

HW 5001

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

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010441174

AUTHENTICATION: 1330749

DATE: 09-06-01

JOINT PLAN AND AGREEMENT OF MERGER

JOINT PLAN AND AGREEMENT OF MERGER ("Agreement" herein), dated as of August 31, 1967, between DRESSER INDUSTRIES, INC. ("Dresser" herein), a Delaware corporation with its principal office at Republic National Bank Building, Dallas, Texas, and HARBISON-WALKER REFRACTORIES COMPANY ("Harbison" herein), a Pennsylvania corporation with its registered office at 2 Gateway Center, Pittsburgh, Pennsylvania (said corporations being sometimes referred to herein collectively as the "Constituent Corporations").

PRELIMINARY RECITAL

Dresser has an authorized capital stock consisting of 5,000,000 shares of Preferred Stock (without Par Value) none of which is issued and outstanding and 30,000,000 shares of Common Stock (Par Value, 25 cents per share) of which, at the close of business July 31, 1967, 9,707,550 shares were validly issued, fully paid and non-assessable, consisting of 9,224,315 shares outstanding and 483,235 shares previously issued and reacquired held as treasury stock, and on such date 596,562 shares were reserved for issuance upon exercise of employee stock options.

Harbison has an authorized capital stock consisting of 30,000 shares of 6% Cumulative Non-callable Preferred Stock (Par Value $100 per share) of which, at the close of business on July 31, 1967, 30,000 shares were validly issued, fully paid and non-assessable, consisting of 19,988 shares outstanding and 10,012 shares previously issued and reacquired held as treasury stock; and 4,000,000 shares of Common Stock (Par Value $7.50 per share) of which, at the close of business July 31, 1967, 3,150,445 shares were validly issued, fully paid and non-assessable, consisting of 3,030,417 shares outstanding and 120,028 shares previously issued and reacquired held as treasury stock, and on such date 26,626 shares were reserved for issuance upon exercise of employee stock options.

There has been no change in the issued and outstanding capital stock of either Dresser or Harbison since July 31, 1967, except by reason of the issuance of Common Stock of Dresser and Harbison upon exercise of employee stock options outstanding on July 31, 1967.

The Board of Directors of each of the Constituent Corporations deems it advisable that said corporations merge and has duly approved this Agreement.

AGREEMENT

Now, THEREFORE, in consideration of the premises and of the mutual agreements and covenants herein contained, it is agreed that Harbison shall be merged into Dresser, that Dresser shall be the Surviving Company under the name "Dresser Industries, Inc." and that the terms and conditions of such merger, the mode of carrying the same into effect and the manner and basis of converting the shares of Harbison into shares of the Surviving Company are as follows:

ARTICLE I

This Agreement and the merger herein provided for shall be submitted to the shareholders of Dresser and Harbison and shall take effect, and the merger herein provided for shall be deemed to be effective, upon due adoption hereof by the shareholders of Dresser and Harbison in accordance with the respective requirements of the laws of Delaware and Pennsylvania and upon the execution, verification, submission, filing and recording of such documents and the accomplishment of such other acts and things as shall be required to effect such merger under the laws of Delaware and Pennsylvania. The date on which the merger shall so take effect is hereinafter referred to as the Effective Date.

ARTICLE II

The Certificate of Incorporation of Dresser, as heretofore amended, is hereby further amended and restated to read as set forth in Exhibit A, attached hereto and made a part

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hereof, and as so amended and restated shall be the Certificate of Incorporation of the Surviving Company and all the terms and provisions thereof are hereby incorporated by reference in this Agreement with the same effect as if herein set forth in full; and said Certificate of Incorporation, separate and apart from this Agreement, shall be and may be separately certified as the Certificate of Incorporation of the Surviving Company.

ARTICLE III

Except as hereinafter specifically provided, the By-Laws of Dresser in effect on the Effective Date shall continue in force and be the By-Laws of the Surviving Company until altered, amended or repealed. On the Effective Date, Section 1 of Article III of the By-Laws of Dresser as then in effect shall be amended to read as follows:

Section 1. *Number and Term of Office.*

The business and affairs of the Company shall be managed and controlled by a Board of Directors, eighteen (18) in number, which number may be altered from time to time by amendment of these By-Laws, but the said number shall never be less than three (3). Said Directors need not be shareholders.

Except as hereinafter specifically provided, the Directors and officers of Dresser in office on the Effective Date shall be the Directors and officers of the Surviving Company and shall hold office as provided in the By-Laws of the Surviving Company. On the Effective Date A. B. Bowden, Richard G. Croft and A. Brent Wilson shall become additional members of the Board of Directors of Dresser as the Surviving Company.

ARTICLE IV

The manner and basis of converting the shares of the Constituent Corporations into shares of the Surviving Company upon the Effective Date shall be as follows:

(a) Each share of Common Stock of Dresser, including all outstanding shares, shares held as treasury stock and authorized but unissued shares, shall remain unchanged.

(b) Each share of the 6% Cumulative Non-callable Preferred Stock ($100 Par Value) of Harbison issued and outstanding on the Effective Date, and all rights in respect thereof, shall be converted into three and four-tenths (3.4) shares of $2.20 Convertible Preferred Stock, Series A, of the Surviving Company, and each holder of shares of such stock of Harbison, upon surrender to the Surviving Company or to its duly authorized agent for cancellation of the certificate or certificates representing such shares shall thereafter be entitled to receive one or more certificates representing the number of full shares of such stock of the Surviving Company to which such holder is entitled as above provided.

(c) Each share of Common Stock of Harbison issued and outstanding on the Effective Date, and all rights in respect thereof, shall be converted into one and one-tenth (1.1) shares of $2.20 Convertible Preferred Stock, Series A, of the Surviving Company; and each holder of shares of such stock of Harbison, upon surrender to the Surviving Company or to its duly authorized agent for cancellation of the certificate or certificates representing such shares shall thereafter be entitled to receive one or more certificates representing the number of full shares of stock of the Surviving Company to which such holder is entitled as above provided.

(d) Each share of the 6% Cumulative Non-callable Preferred Stock ($100 Par Value) and each share of Common Stock of Harbison held in the treasury of Harbison on the Effective Date shall be cancelled.

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(e) Until surrendered as above provided, each outstanding certificate which prior to the merger becoming effective represented shares of stock of Harbison shall be deemed for all corporate purposes to evidence ownership of the number of full shares of stock of the Surviving Company into which the same shall have been converted as above provided. Notwithstanding the foregoing, unless and until any such outstanding certificates of Harbison shall be so surrendered, no dividend payable to the holders of record of stock of the Surviving Company as of any date subsequent to the Effective Date shall be paid to the holders of such outstanding certificates, but upon such surrender of any such outstanding certificate or certificates, there shall be paid to the record holder of the certificate or certificates of stock of the Surviving Company into which such shares shall have been so converted, the amount of dividends which theretofore became payable with respect to such shares of stock of the Surviving Company without interest thereon.

(f) Stock options to purchase shares of Common Stock of Harbison outstanding under Harbison's employee stock option plan on the Effective Date shall then be converted into options to purchase one and one tenth (1.1) shares of \$2.20 Convertible Preferred Stock, Series A, of the Surviving Company, for each share of Common Stock of Harbison covered by the respective options at the same respective option prices for such one and one tenth (1.1) Dresser shares as is applicable under such options to each one (1) Harbison share. All other terms and conditions of said options on the Effective Date shall remain the same. If any conversion of an option for Common Stock of Harbison into an option for \$2.20 Convertible Preferred Stock, Series A, as herein provided, would result in an option with respect to a fractional share of \$2.20 Convertible Preferred Stock, Series A, such option shall be reduced to cover the next lower whole number of shares of \$2.20 Convertible Preferred Stock, Series A.

(g) No scrip or fractional share certificates of Dresser \$2.20 Convertible Preferred Stock, Series A, will be issued and an outstanding fractional share interest will not entitle the owner thereof to vote, to receive dividends or to any rights of a shareholder with respect to such fractional interest. Instead, the Surviving Company will provide an Exchange Agent as agent for the shareholders of Harbison so that for 90 days after the Effective Date any shareholder of Harbison entitled to a fractional share interest, upon the surrender of Harbison stock certificates, may purchase or sell the appropriate fractional interest in a share of Dresser \$2.20 Convertible Preferred Stock, Series A, in order to round out his holdings to whole shares. Thereafter, the Exchange Agent will sell, for the account of all owners of the then remaining fractional share interests, shares of Dresser \$2.20 Convertible Preferred Stock, Series A, equivalent to the aggregate fractional interests then outstanding. The Exchange Agent will, until six years after the Effective Date, pay to such owners upon surrender of their Harbison stock certificates their pro rata share of the net proceeds of such sale. Upon the expiration of this six-year period, any remaining proceeds of sale shall become the property of the Surviving Company.

ARTICLE V

On the Effective Date the separate existence of Harbison shall cease and all the property, real, personal and mixed, of each of the Constituent Corporations and all the debts due on whatever account to either of them, including subscriptions to shares and other choses in action belonging to either of them, shall be taken and deemed to be transferred to and vested in the Surviving Company, without further act or deed. The Surviving Company shall thenceforth be responsible for all the liabilities and obligations of each of the Constituent Corporations, including any claims to indemnification which the directors or officers of Harbison may have against Harbison, but the liabilities of the Constituent Corporations, or their shareholders, directors or officers, shall not be affected, nor shall the rights of the creditors thereof or of any person dealing with the Constituent Corporations, or any liens upon the property of the Constituent Corporations, be impaired by the merger, and any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted to judgment as if such merger had not taken place, or the Surviving Company may be proceeded against or substituted in its place.

From time to time as and when requested by the Surviving Company, or by its successors or assigns, Harbison will execute and deliver such deeds and other instruments and will take or cause to be taken such further or other action as shall be necessary in order to vest or perfect in or to confirm of record or otherwise to the Surviving Company title to, and possession of, all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Harbison, and otherwise to carry out the purposes of this Joint Plan and Agreement of Merger.

ARTICLE VI

Dresser and Harbison have, contemporaneously with the execution of this Agreement, entered into a Plan of Reorganization, dated as of the date hereof. If prior to the Effective Date the Plan of Reorganization is terminated, for any reason and whether before or after approval of this Agreement and the merger by the stockholders of both Constituent Corporations, this Agreement shall immediately terminate and the merger shall be immediately abandoned.

ARTICLE VII

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been signed on behalf of each of the Constituent Corporations by their respective duly authorized officers and each of the Constituent Corporations has caused its corporate seal to be hereto affixed all as of the day and year first above written.

DRESSER INDUSTRIES, INC.

[CORPORATE SEAL]

John Lawrence

By JOHN LAWRENCE
President

J D Mayson

By J. D. MAYSON
Secretary

HARBISON-WALKER REFRACTORIES COMPANY

[CORPORATE SEAL]

A Brent Wilson

By A. BRENT WILSON
President

Thomas Welfe

By THOMAS WELFE
Secretary

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Exhibit A

CERTIFICATE OF INCORPORATION AS AMENDED OF DRESSER INDUSTRIES, INC.

ARTICLE I

The name of the Corporation shall be "Dresser Industries, Inc."

ARTICLE II

The principal office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware, and the name of the Resident Agent in charge thereof is The Corporation Trust Company, whose address is 100 West Tenth Street, Wilmington, Delaware.

ARTICLE III

The nature of the business and purposes to be conducted or promoted by the Corporation is any lawful act or activity, including but not limited to manufacturing, for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

A. Authorized Shares and Classes of Stock.

The total number of shares of all classes of stock which the Corporation shall have authority to issue is thirty-six million (36,000,000) shares, which shall be divided into two classes as follows: six million (6,000,000) shares of Preferred Stock without par value and thirty million (30,000,000) shares of Common Stock of the par value of twenty-five cents (25¢) each.

B. Designations, Powers, Preferences and Rights in Respect of the Shares of Preferred Stock.

(1) 3,430,367 shares of the Preferred Stock are hereby constituted as a series of Convertible Preferred Stock designated as "$2.20 Convertible Preferred Stock, Series A" (hereinafter called "Series A Stock") with the powers, preferences and rights hereinafter set forth.

(a) The dividend rate for Series A Stock is Two Dollars and Twenty Cents ($2.20) and no more per annum. Dividends on the Series A Stock shall be payable as and when declared by the Board of Directors, out of funds at the time legally available for payment of dividends, prior to payment of any dividend on shares ranking junior to Series A Stock, on the 15th day (or the next business day thereafter if such 15th day is not a business day) of March, June, September and December in each year. Dividends on Series A Stock shall be cumulative from and after the day of issuance thereof.

(b) Shares of Series A Stock may be redeemed, in whole or in part, at any time after the fifth anniversary of the date on which any shares of Series A Stock are first issued, at the option of the Corporation at a redemption price in accordance with the following table,

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plus, in each case, an amount equal to unpaid cumulative dividends accrued to the date of redemption.

If the date of redemption is in the year indicated after shares of Series A Stock are first issued:	The redemption price shall be:
Sixth Through Eighth Years	$49.00
Ninth Through Eleventh Years	48.50
Twelfth Through Fourteenth Years	48.00
Fifteenth and Following Years	47.50

If less than all the outstanding shares of Series A Stock are to be redeemed, the shares to be redeemed shall be selected either by lot or pro rata in such manner as may be prescribed by resolution of the Board of Directors. Notice to the holders of shares of Series A Stock to be redeemed shall be given by mailing to such holders a notice of such redemption, first class, postage prepaid, not later than the thirtieth day, and not earlier than the sixtieth day, before the date fixed for redemption, at their last addresses as they shall appear upon the books of the Corporation. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the stockholder receives such notice; and failure duly to give such notice by mail, or any defect in such notice, to any stockholder designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series A Stock.

The notice of redemption to each stockholder whose shares of Series A Stock are to be redeemed shall specify the number of shares of Series A Stock of such stockholder to be redeemed, the date fixed for redemption and the redemption price at which shares of Series A Stock are to be redeemed, and shall specify where payment of the redemption price is to be made upon surrender of such shares, shall state the conversion price then in effect, and shall state that accrued dividends to the date fixed for redemption will be paid as specified in said notice, that from and after said date dividends thereon will cease to accrue, and that conversion rights of such shares shall cease and terminate at the close of business on the date fixed for redemption.

In the case of each share of Series A Stock called for redemption as above provided, the Corporation shall be obligated (unless such share shall be converted on or prior to the redemption date) to pay to the holder thereof the redemption price plus accrued dividends, if any, to the redemption date, upon surrender of the certificate for such share at the office of any transfer agent for the Series A Stock, on or after the redemption date. Unless the Corporation shall default in the payment of the redemption price plus accrued dividends, if any, dividends on each share of Series A Stock so called for redemption shall cease to accrue from and after the redemption date.

If, on or prior to any date fixed for redemption of Series A Stock (but not before the fifth anniversary of the date on which any shares of Series A Stock are first issued), the Corporation deposits, with any bank or trust company in the City of Dallas, State of Texas, having a capital and surplus in excess of $5,000,000, as a trust fund, a sum sufficient to redeem, on the date fixed for redemption thereof, the shares called for redemption, with irrevocable instructions and authority to the bank or trust company to give the notice of redemption thereof if such notice shall not previously have been given by the Corporation, or to complete the giving of such notice if theretofore commenced, and to pay, on and after the date fixed for redemption or prior thereto, the redemption price of the shares to their respective holders upon surrender of their share certificates, then from and after the date of the deposit (although prior to the date fixed for redemption), the shares so called shall be deemed to be redeemed

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and dividends on those shares shall cease to accrue after the date fixed for redemption. The deposit shall be deemed to constitute full payment for the shares to their holders and from and after the date of the deposit the shares shall be deemed to be no longer outstanding, and the holders thereof shall cease to be shareholders with respect to such shares, and shall have no rights with respect thereto except the right to receive from the bank or trust company payment of the redemption price of the shares without interest, upon the surrender of their certificates therefor and the right to convert said shares as provided herein at any time up to but not after the close of business on the date fixed for redemption. Any moneys so deposited on account of the redemption price of Series A Stock converted subsequent to the making of such deposit shall be repaid to the Corporation forthwith upon the conversion of such shares, but only in that event.

(c) In the event of any voluntary liquidation, dissolution or winding up of the Corporation, the holders of Series A Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders an amount per share equal to the redemption price under subsection (b) above applicable in the year in which voluntary liquidation, dissolution or winding up is completed, or in the event of any involuntary liquidation, dissolution or winding up of the Corporation the holders of shares of Series A Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders an amount equal to $15.00 per share, plus in either case an amount equal to unpaid cumulative dividends, and no more, before any payment shall be made to the holders of any stock of the Corporation ranking junior to Series A Stock. If the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay in full all amounts to which the holders of Preferred Stock of all series ranking on a parity as to liquidation preference are entitled, the amount available for distribution to stockholders shall be shared by the holders of all such series of Preferred Stock pro rata according to the preferential amounts to which the shares of each such series are entitled. For the purposes of this subsection (c), a consolidation or merger of the Corporation with any other corporation, or the sale, transfer or lease of all or substantially all its assets shall not constitute or be deemed a liquidation, dissolution or winding up of the Corporation.

(d) The shares of Series A Stock shall not be subject to the operation of a purchase, retirement or sinking fund.

(e) The holders of shares of Series A Stock shall have the right, at their option, to convert such shares into shares of Common Stock of the Corporation at any time on and subject to the following terms and conditions:

(i) The shares of Series A Stock shall be convertible at the office of any Transfer Agent for the Series A Stock, and at such other office or offices, if any, as the Board of Directors may designate, into fully paid and non-assessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Corporation, at the conversion price, determined as hereinafter provided, in effect at the time of conversion, each share of Series A Stock being taken at $15.00 for the purpose of such conversion. The price at which shares of Common Stock shall be delivered upon conversion (herein called the "conversion price") shall be initially $15.00 per share of Common Stock. The conversion price shall be reduced in certain instances as provided in paragraphs (iii), (ix) and (x) below, and shall be increased in certain instances as provided in paragraph (x) below. No payment or adjustment shall be made upon any conversion on account of any dividends accrued on the shares of Series A Stock surrendered for conversion or on account of any dividends on the Common Stock issued upon such conversion.

(ii) In order to convert shares of Series A Stock into Common Stock the holder thereof shall surrender at any office hereinabove mentioned the certificate or certificates therefor, duly endorsed to the Corporation or in blank, and give written notice to the Corporation at said office that he elects to convert such shares. Shares of Series A Stock shall be deemed to have been

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converted immediately prior to the close of business on the day of the surrender of such shares for conversion as provided above, and the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such Common Stock at such time. As promptly as practicable on or after the conversion date, the Corporation shall issue and shall deliver at said office a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion, together with a scrip certificate for, or cash in lieu of, any fraction of a share, as hereinafter provided, to the person or persons entitled to receive the same. In case shares of Series A Stock are called for redemption, the right to convert such shares shall cease and terminate at the close of business on the date fixed for redemption, unless default shall be made in payment of the redemption price.

(iii) In case the conversion price in effect immediately prior to the close of business on any day shall exceed by fifty cents or more the amount determined at the close of business on such day by dividing:

(x) a sum equal to (A) 9,233,203 multiplied by $45.00 (being the initial conversion price), plus (B) the aggregate of the amounts of all consideration received by the Corporation upon the issuance of Additional Shares of Common Stock (as hereinafter defined), minus (C) the aggregate of the amounts of all dividends and other distributions which have been paid or made after August 31, 1967 on Common Stock of the Corporation, other than in cash out of its earned surplus or in Common Stock of the Corporation, by

(y) the sum of (A) 9,233,203 and (B) the number of Additional Shares of Common Stock which shall have been issued,

the conversion price shall be reduced, effective immediately prior to the opening of business on the next succeeding day, by an amount equal to the amount by which such conversion price shall exceed the amount so determined. The foregoing amount of fifty cents (or such amount as theretofore adjusted) shall be subject to adjustment as provided in paragraphs (ix) and (x) below, and such amount (or such amount as theretofore adjusted) is referred to in such paragraphs as the "Differential Amount."

(iv) The term "Additional Shares of Common Stock" as used herein shall mean all shares of Common Stock issued by the Corporation after August 31, 1967 (including shares deemed to be "Additional Shares of Common Stock" pursuant to paragraphs (viii) and (x) below), whether or not subsequently reacquired or retired by the Corporation, other than:

(x) shares issued upon conversion of shares of Series A Stock;

(y) shares issued upon exercise of options granted or to be granted pursuant to any employee stock option plans and shares issued pursuant to the Corporation's Deferred Compensation Plans but not exceeding in the aggregate 800,000 shares of Common Stock of the Corporation as constituted on August 31, 1967 (or such greater or lesser number of shares as may result from the proportionate adjustment of such 800,000 shares of Common Stock pursuant to antidilution provisions of such options or plans); and

(z) shares issued by way of dividend or other distribution on shares of Common Stock excluded from the definition of Additional Shares of Common Stock by the foregoing clauses (x) or (y) or this clause (z) or on shares of Common Stock resulting from any subdivision or combination of shares of Common Stock so excluded.

The sale or other disposition of any shares of Common Stock or other securities held in the treasury of the Corporation at the close of business on August 31, 1967, or of any securities resulting from any reclassification or reclassifications of such shares or other securities which were effected while they were held in the treasury of the Corporation, shall be deemed an issuance thereof; provided, however, that if any such share or other security is sold or disposed of

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and subsequently reacquired by the Corporation, no future sale or other disposition thereof shall be deemed an issuance thereof. Except as provided in the preceding sentence the sale or other disposition, including any such sale or disposition in connection with the stock option or deferred compensation plans of the Corporation, of any shares of Common Stock or other securities held in the treasury of the Corporation shall not be deemed an issuance thereof.

(v) In case of the issuance of Additional Shares of Common Stock (including shares deemed to be Additional Shares of Common Stock pursuant to paragraph (viii) below) for a consideration part or all of which shall be cash, the amount of the cash consideration therefor shall be deemed to be the amount of cash received by the Corporation for such shares (or, if such Additional Shares of Common Stock are offered by the Corporation for subscription, the subscription price, or, if such Additional Shares of Common Stock are sold to underwriters or dealers for public offering without a subscription offering, the initial public offering price), without deducting therefrom any compensation or discount in the sale, underwriting or purchase thereof by underwriters or dealers or others performing similar services or for any expenses incurred in connection therewith.

(vi) In case of the issuance (otherwise than as a dividend or other distribution on any stock of the Corporation or upon conversion or exchange of other securities of the Corporation) of Additional Shares of Common Stock (including shares deemed to be Additional Shares of Common Stock pursuant to paragraph (viii) below) for a consideration part or all of which shall be other than cash, the amount of the consideration therefor other than cash shall be deemed to be the value of such consideration as determined by the Board of Directors, irrespective of the accounting treatment thereof. The reclassification of securities other than Common Stock into securities including Common Stock shall be deemed to involve the issuance for a consideration other than cash of such Common Stock immediately prior to the close of business on the date fixed for the determination of stockholders entitled to receive such Common Stock.

(vii) Additional Shares of Common Stock issuable by way of dividend or other distribution on any class of capital stock of the Corporation shall be deemed to have been issued without consideration, and shall be deemed to have been issued immediately prior to the close of business on the date fixed for the determination of stockholders entitled to receive such dividend or other distribution.

A dividend or other distribution in cash or in property (including any dividend or other distribution in securities other than Common Stock) shall be deemed to have been paid or made immediately prior to the close of business on the date fixed for the determination of stockholders entitled to receive such dividend or other distribution and the amount of such dividend or other distribution in property shall be deemed to be the value of such property as of the date of the adoption of the resolution declaring such dividend or other distribution, as determined by the Board of Directors at or as of that date. In the case of any such dividend or other distribution on Common Stock which consists of securities which are convertible into or exchangeable for shares of Common Stock, such securities shall be deemed to have been issued for a consideration equal to the value thereof as so determined.

If, upon the payment of any dividend or other distribution in cash or in property (excluding Common Stock but including all other securities), outstanding shares of Common Stock are cancelled or required to be surrendered for cancellation, on a *pro rata* basis, the excess of the number of shares of Common Stock outstanding immediately prior thereto over the number to be outstanding immediately thereafter (less that portion of such excess attributable to the cancellation of shares excluded from the definition of Additional Shares of Common Stock by clauses (x), (y) or (z) of paragraph (iv) above), shall be deducted from the sum computed pursuant to clause (y) of paragraph (iii) above for the purpose of all determinations under such paragraph (iii) made immediately prior to the close of business on the date fixed for the determination of stockholders entitled to receive such dividend or other distribution and at any time thereafter.

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The reclassification (including any reclassification upon a consolidation or merger in which the Corporation is the continuing corporation) of Common Stock into securities including other than Common Stock shall be deemed to involve (a) a distribution on Common Stock of such securities other than Common Stock made immediately prior to the close of business on the effective date of the reclassification, and (b) a combination or subdivision, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter.

The issuance by the Corporation of rights or warrants to subscribe for or purchase securities of the Corporation shall not be deemed to be a dividend or distribution of any kind.

(viii) In case at any time the Corporation shall in any manner issue or grant any rights to subscribe for or to purchase, or any options for the purchase of, (A) Common Stock (other than options or rights to purchase or acquire shares the issuance of which is excluded from the definition of Additional Shares of Common Stock) or (B) Convertible Securities, or shall issue or sell Convertible Securities, and the price per share for which Common Stock is issuable upon the exercise of such rights or options or upon conversion or exchange of such Convertible Securities at the time such Convertible Securities first become convertible or exchangeable (determined by dividing

(x) in the case of an issue or grant of any such rights or options, the total amount, if any, received or receivable by the Corporation as consideration for the issue or grant of such rights or options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of such rights or options, plus, in the case of such Convertible Securities purchased upon exercise of such rights or options, the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange of such Convertible Securities at the time such Convertible Securities first become convertible or exchangeable, or

(y) in the case of an issue or sale of Convertible Securities other than where the same are issuable upon the exercise of any such rights or options, the total amount, if any, received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange of such Convertible Securities at the time such Convertible Securities first become convertible or exchangeable, by, in either such case,

(z) the total maximum number of shares of Common Stock issuable upon the exercise of such rights or options or upon the conversion or exchange of such Convertible Securities at the time such Convertible Securities first become convertible or exchangeable)

shall be less than the current conversion price, then the total maximum number of shares of Common Stock issuable upon the exercise of such rights or options or upon conversion or exchange of the total maximum amount of such Convertible Securities at the time such Convertible Securities first become convertible or exchangeable shall (as of the date of issue or grant of such rights or options or, in the case of the issue or sale of Convertible Securities other than where the same are issuable upon the exercise of rights or options, as of the date of such issue or sale) be deemed to be Additional Shares of Common Stock for the purposes of paragraph (iv) above and to have been issued and outstanding at the time such Convertible Securities first become convertible or exchangeable and to have been issued for said price per share; provided that, subject to the provisions of the second paragraph of this paragraph (viii), no further adjustment of the conversion price shall be made upon the actual issue of any such Common Stock or Convertible Securities or upon the conversion or exchange of any such Convertible Securities.

In the event of an adjustment in the purchase price per share of Common Stock provided for in any options or rights referred to above in this paragraph (viii) or in the consideration to be received by the Corporation upon the conversion or exchange of any Convertible Securities referred to above in this paragraph (viii), the current conversion price shall forthwith be readjusted to such amount as would have obtained had the adjustment in such purchase price or consideration been initially reflected upon the issuance of such options, rights or Convertible Securities, but such readjustment shall be made only to the extent that such options or rights remain outstanding or unexercised and such Convertible Securities remain outstanding and unconverted and unexchanged, *provided, however*, that in no event shall any such readjustment increase the current conversion price to an amount in excess of the initial conversion price as increased only in accordance with the provisions of paragraph (x) below. Upon the expiration of such options or rights or the termination of the right to convert or exchange any such Convertible Securities, the current conversion price shall forthwith be readjusted to such amount as would have obtained had the adjustment made upon the issuance of such options, rights or Convertible Securities been made upon the basis of the issuance of only the number of shares of Common Stock actually delivered upon the exercise of such options or rights or the conversion or exchange of such Convertible Securities, *provided, however*, that in no event shall any such readjustment increase the current conversion price to an amount in excess of the initial conversion price as increased only in accordance with the provisions of paragraph (x) below. Upon any readjustment of the current conversion price pursuant to the provisions of this paragraph, such readjustment shall thereafter, for all purposes hereof, be deemed to have become effective at the time of the next preceding adjustment of the conversion price otherwise than pursuant to the provisions of this paragraph.

(ix) In case Additional Shares of Common Stock are issued as a dividend or other distribution on any class of capital stock of the Corporation, the conversion price and the Differential Amount in effect at the opening of business on the day following the date fixed for determination of shareholders entitled to receive such dividend or other distribution shall be reduced by multiplying each of them by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such reductions to become effective immediately after the opening of business on the day following the date fixed for such determination. For the purposes of this paragraph (ix), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Corporation unless such dividend or other distribution is effected with respect to such shares but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock (other than shares of Common Stock which, upon issuance, would not constitute Additional Shares of Common Stock). The adjustment of the conversion price and the Differential Amount provided for in this paragraph shall be the only adjustment made by reason of any such dividend or distribution but the Additional Shares of Common Stock issued as such dividend or other distribution for the purpose of future calculations under paragraph (iii) above, shall be included as Additional Shares of Common Stock on the basis set forth in paragraph (vii) above.

(x) In case outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the conversion price and the Differential Amount in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall each be proportionately reduced, and, conversely, in case outstanding shares of Common Stock shall each be combined into a smaller number of shares of Common Stock, the conversion price and the Differential Amount in effect at the opening of business on the day following the day upon which such combination becomes effective shall each be proportionately increased, such reductions or increases as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective. In the event of any such subdivision, the number of shares of Common Stock outstanding immediately thereafter, to the extent of the excess thereof over the

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number outstanding immediately prior thereto (less that portion of such excess attributable to the subdivision of shares excluded from the definition of Additional Shares of Common Stock by clauses (x), (y) or (z) of paragraph (iv) above), shall be deemed to be "Additional Shares of Common Stock" and to have been issued immediately after the opening of business on the day following the day upon which such subdivision shall have become effective and without consideration. In the event of any such combination, the excess of the number of shares of Common Stock outstanding immediately prior thereto over the number outstanding immediately thereafter (less that portion of such excess attributable to the combination of shares excluded from the definition of Additional Shares of Common Stock by clauses (x), (y) or (z) of paragraph (iv) above), shall be deducted from the sum computed pursuant to clause (y) of paragraph (iii) above for the purpose of all determinations under such paragraph (iii) made on any day after the day upon which such combination becomes effective. For the purpose of this paragraph (x), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Corporation continuously since the close of business on August 31, 1967, including shares resulting from any reclassification or reclassifications of any such shares. Except as provided in the preceding sentence, shares of Common Stock held in the treasury of the Corporation and shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock (other than shares of Common Stock which, upon issuance, would not constitute Additional Shares of Common Stock) shall be considered outstanding for the purposes of this paragraph (x).

(xi) Whenever the conversion price is adjusted as herein provided:

(x) the Corporation shall compute the adjusted conversion price in accordance with this subsection (e) and shall prepare a certificate signed by the Treasurer of the Corporation setting forth the adjusted conversion price and showing in reasonable detail the facts upon which such adjustment is based, including a statement of the consideration received or to be received by the Corporation for, and the amount of, any Additional Shares of Common Stock issued since the last such adjustment, and such certificate shall forthwith be filed with the Transfer Agent or Agents for this Series; and

(y) a notice stating that the conversion price has been adjusted and setting forth the adjusted conversion price shall forthwith be required, and as soon as practicable after it is required, such notice shall be published at least once in a daily newspaper in the City of New York, N. Y., and shall be mailed to the holders of record of the outstanding shares of Series A Stock; provided, however, that if within ten days after the completion of mailing of such a notice, an additional notice is required, such additional notice shall be deemed to be required pursuant to this clause (y) as of the opening of business on the tenth day after such completion of mailing and shall set forth the conversion price as adjusted at such opening of business, and upon the publication and mailing of such additional notice no other notice need be given of any adjustment in the conversion price occurring at or prior to such opening of business and after the time that the next preceding notice given by publication and mail became required.

(xii) In case:

(a) the Corporation shall declare a dividend (or any other distribution) on its Common Stock payable otherwise than in cash out of its earned surplus; or

(b) the Corporation shall authorize the granting to the holders of its Common Stock of rights to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(c) of any reclassification of the capital stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock), or of any consolidation or merger to which the Corporation is a party and for which approval of any stockholders of the Corporation is required, or of the sale or transfer of all or substantially all of the assets of the Corporation; or

(d) of the voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then the Corporation shall cause to be mailed to the Transfer Agent or Agents for Series A Stock and to the holders of record of the outstanding shares of Series A Stock, at least twenty days (or ten days in any case specified in clause (a) or (b) above) prior to the applicable record date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up.

(xiii) The Corporation shall at all times reserve and keep available, free from pre-emptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the shares of this Series, the full number of shares of Common Stock then deliverable upon the conversion of all shares of Series A Stock then outstanding. If any shares of Common Stock required to be reserved for purposes of conversion of Series A Stock hereunder, require registration with or approval of any governmental authority under any Federal or State law before such shares may be issued upon conversion, the Corporation will in good faith and as expeditiously as possible endeavor to cause such shares to be duly registered or approved, as the case may be.

(xiv) No fractional shares of Common Stock shall be issued upon conversion, but, instead of any fraction of a share which would otherwise be issuable, the Corporation shall, at its option, either

(x) issue non-dividend bearing and non-voting scrip certificates for such fraction, such certificates to be in such form and to contain such terms and conditions as the Board of Directors shall at any time or from time to time in its discretion fix and determine, provided that the certificates shall be exchangeable, within such period (which shall end not less than two years following the date of issue thereof) as the Board of Directors shall determine, together with other scrip certificates issued upon conversion of shares of Series A Stock, for stock certificates representing a full share or shares, and upon the expiration of such period shall be exchangeable for cash, as provided in the scrip certificates, within such further period (which shall end not less than six years following the date of issue of such certificates) as the Board of Directors shall determine; or

(y) pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the market price per share of Common Stock (as determined by the Board of Directors) at the close of business on the day of conversion.

(xv) The Corporation will pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of shares of Series A Stock pursuant hereto. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Series A Stock so converted were registered, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Corporation the amount of any such tax, or has established, to the satisfaction of the Corporation, that such tax has been paid.

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(xvi) For the purpose of this subsection (e), the term "Common Stock" shall include any stock of any class of the Corporation which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, and which is not subject to redemption by the Corporation. However, shares issuable on conversion of shares of Series A Stock shall include only shares of the class designated as Common Stock of the Corporation as of August 31, 1967, or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation and which are not subject to redemption by the Corporation; provided that if at any time there shall be more than one such resulting class, the shares of each such class then issuable upon conversion of the Series A Stock shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications. For the purpose of this subsection (e), the term "Convertible Securities" shall include any securities or stock of any class which are convertible into, or exchangeable for, Common Stock.

(f) (i) Except as otherwise provided in this Certificate or as otherwise made mandatory by law, each holder of Series A Stock shall be entitled to one vote for each share of such stock then outstanding and of record in his name on the books of the Corporation.

(ii) If at any time dividends in respect to any Series A Stock shall be in default in an amount equal to or exceeding the dividend thereon for six quarterly periods at the rate fixed therefor, the holders of Series A Stock together with the holders of such outstanding Preferred Stock of other series with respect to which such right may be granted, voting separately as a class, each share of such Preferred Stock having one vote, in addition to any other voting right of such stock with respect to election of Directors, shall become entitled at the next annual meeting of stockholders and at each annual meeting thereafter until all dividends in default on all series of Preferred Stock the holders of which are entitled to such vote shall have been paid or declared and a sum sufficient for the payment thereof set apart, to elect two Directors of the Corporation, and the remaining Directors of the Corporation shall be elected by the holders of stock of the Corporation entitled to vote at elections of Directors in the absence of such a default in the payment of dividends, including the holders of outstanding Series A Stock. When all dividends in default on all series of Preferred Stock the holders of which are entitled to such vote shall thereafter be paid or declared and a sum sufficient for the payment thereof set apart, the holders of such outstanding Preferred Stock shall then be divested of such right to elect two Directors of the Corporation and at the next annual meeting of stockholders and at each annual meeting thereafter each such holder of Preferred Stock shall again have the same voting rights at the election of Directors as such holder would have had but for such default in the payment of dividends, but always subject to the same provisions for the vesting of such right to elect two Directors in case of any similar future default in the payment of dividends on Series A Stock.

(iii) So long as any shares of Series A Stock shall be outstanding and unless the consent or approval of a greater number of shares shall then be required by law, without first obtaining the consent or approval of the holders of at least two-thirds of the number of shares of Series A Stock at the time outstanding, given in person or by proxy at a meeting at which the holders of such shares shall be entitled to vote separately as a class, the Corporation shall not: (1) authorize or issue shares of any class or series of stock having any preference or priority as to dividends or upon liquidation (hereinafter referred to as "Senior Stock") over the Series A Stock; (2) reclassify any shares of stock of the Corporation into shares of Senior Stock; (3) issue any security exchangeable for, convertible into, or evidencing the right to purchase any shares of Senior Stock; (4) be a party to any merger or consolidation unless the surviving or resulting corporation will have after such merger or consolidation no stock either authorized or outstanding ranking prior as to dividends or upon liquidation to Series A Stock or to the stock of the surviving or resulting corporation issued in exchange therefor (except such prior ranking stock of the Corporation as may have been authorized or outstanding immediately preceding such merger or consolidation or such substantially identical stock of the surviving or resulting corporation as may be issued in exchange therefor); or (5) amend, alter or repeal its Certificate of Incorporation to alter or change the preferences, rights or powers of the Series A Stock so as to affect such stock adversely.

(iv) So long as any shares of Preferred Stock shall be outstanding and unless the consent or approval of a greater number of shares shall then be required by law, without first obtaining the consent or approval of the holders of a majority of the number of such shares at the time outstanding, given in person or by proxy at a meeting at which the holders of such shares shall be entitled to vote separately as a class, the Corporation shall not (1) amend the provisions of its Certificate of Incorporation so as to authorize any other class or classes of stock ranking on a parity with such Preferred Stock either as to payment of dividends or upon liquidation or (2) be a party to any merger or consolidation unless the surviving or resulting corporation will have after such merger or consolidation no greater number of authorized shares ranking on a parity with such Preferred Stock either as to payment of dividends or upon liquidation than were authorized by the Corporation immediately preceding such merger or consolidation; provided, however, that nothing in this sentence shall be deemed to limit the discretionary authority of the Board of Directors with respect to shares of Preferred Stock other than shares comprising this Series A.

(g) Shares of Series A Stock which have been redeemed or converted, or which have been issued and reacquired in any manner and retired, may not be reissued as Series A Stock but shall have the status of authorized and unissued Preferred Stock which may be reissued by the Board of Directors as provided in Section 2 hereof.

(h) Except as otherwise provided in this Certificate, additional shares of Series A Stock, or of any shares of any other series, shall not be subject to restrictions as to issuance, or as to powers, preferences or rights of any such other series.

(2) Subject to the provisions of Section 1 above, the designations, powers, preferences and rights in respect of the Shares of Preferred Stock other than the Shares of Convertible Preferred Stock, Series A, shall be as follows:

(a) Shares of Preferred Stock may be issued in one or more series at such time or times and for such consideration or considerations as the Board of Directors may determine. All shares of any one series shall be of equal rank and identical in all respects.

(b) Authority is hereby expressly granted to the Board of Directors to fix from time to time, by resolution or resolutions providing for the issue of any series of Preferred Stock, the designation of such series and the powers, preferences and rights of the shares of such series, and the qualifications, limitations or restrictions thereof, including the following:

(i) The distinctive designation and number of shares comprising such series, which number may (except where otherwise provided by the Board of Directors in creating such series) be increased or decreased (but not below the number of shares then outstanding) from time to time by like action of the Board of Directors;

(ii) The dividend rate or rates on the shares of such series and the preferences, if any, over any other series (or of any other series over such series) with respect to dividends, the terms and conditions upon which dividends shall be payable, whether and upon what conditions such dividends shall be cumulative and, if cumulative, the date or dates from which dividends shall accumulate;

(iii) Whether or not the shares of such series shall be redeemable, the limitations and restrictions with respect to such redemptions, the time or times when, the price or prices at which and the manner in which such shares shall be redeemable, including the manner of selecting shares of such series for redemption if less than all shares are to be redeemed, the rights of the holders of shares of such series called for redemption and any other terms and conditions of such redemption:

(iv) The rights to which the holders of such series shall be entitled, and the preferences, if any, over any other series (or of any other series over such series), upon the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, which rights may vary depending on whether such liquidation, dissolution or winding-up is voluntary or involuntary, and, if voluntary, may vary at different dates;

(v) Whether or not the shares of such series shall be subject to the operation of a purchase, retirement or sinking fund, and, if so, whether and upon what conditions such purchase, retirement or sinking fund shall be cumulative or noncumulative, the extent to which and the manner in which such fund shall be applied to the purchase or redemption of the shares of such series for retirement or to other corporate purposes and the terms and provisions relative to the operation thereof;

(vi) Whether or not the shares of such series shall be convertible into or exchangeable for shares of stock of any other class or classes, or of any other series of the same class and, if so convertible or exchangeable, the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same, and any other terms and conditions of such conversion or exchange;

(vii) The voting powers, full and/or limited, if any, of the shares of such series; and whether or not and under what conditions the shares of such series (alone or together with the shares of one or more other series having similar provisions) shall be entitled to vote separately as a single class, for the election of one or more additional directors of the Corporation in case of dividend arrearages or other specified events, or upon other matters;

(viii) Whether or not the issuance of any additional shares of such series, or of any shares of any other series, shall be subject to restrictions as to issuance, or as to the powers, preferences or rights of any such other series;

(ix) Whether or not the holders of shares of such series shall be entitled to subscribe for or purchase any part of any new or additional issue of stock of any class or of securities convertible into stock of any class and, if so entitled, the qualifications, conditions, limitations and restrictions of such right; and

(x) Any other preferences, privileges and powers, and relative, participating, optional or other special rights, and qualifications, limitations or restrictions of such series, as the Board of Directors may deem advisable and as shall not be inconsistent with the provisions of this Certificate of Incorporation.

(c) The shares of each series of Preferred Stock shall entitle the holders thereof to receive, when, as and if declared by the Board of Directors out of funds legally available for dividends, cash dividends at the rate, under the conditions, for the periods and on the dates fixed by the resolution or resolutions of the Board of Directors pursuant to authority granted in this Section 2, for each series, and no more, before any dividends on the Common Stock, other than dividends payable in Common Stock, shall be paid or set apart for payment. If and so long as dividends are not paid in full, or declared in full and set apart for the payment thereof, on all outstanding series of Preferred Stock which rank equally as to dividends, then no dividends shall be paid, or declared and set apart for payment, on any particular series of such Preferred Stock, unless dividends shall be or have been paid, or declared and set

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apart for payment, ratably on all shares of Preferred Stock of all series ranking equally as to dividends with such particular series, so that the amount of dividends per share declared on such particular series shall bear the same ratio to the aggregate amounts per share declared on all such series as the annual dividend rate of such particular series shall bear to the aggregate annual dividend rates of all such series; provided, however, that this provision shall not operate to permit or require the declaration or payment of dividends on any series of such Preferred Stock except to the extent that the dividends accrued or in arrears thereon shall at such times be unpaid. The term "dividends accrued or in arrears", as used herein, shall be deemed to mean, in the case of cumulative Preferred Stock of any such series, an amount which shall be equal to dividends at the annual dividend rate per share for the respective series from the date or dates on which such dividends commence to accrue to the end of the then current quarterly dividend period for such series, less the amount of all dividends theretofore paid upon the shares of such series, and in the case of non-cumulative Preferred Stock of any such series shall be deemed to mean dividends for the then current dividend payment period at the rate provided for such series. The Preferred Stock shall not be entitled to participate in any dividends declared and paid on the Common Stock, whether payable in cash, stock or otherwise. Accruals of dividends shall not bear interest.

(d) Shares of Preferred Stock which have been redeemed or converted, or which have been issued and reacquired in any manner and retired, shall have the status of authorized and unissued Preferred Stock and may be reissued by the Board of Directors as shares of the same or any other series, unless otherwise provided with respect to any series in the resolution of the Board of Directors creating such series.

(e) In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, the holders of the shares of each series of the Preferred Stock then outstanding shall be entitled to receive out of the net assets of the Corporation, but only in accordance with the preferences, if any, provided for such series, before any distribution or payment shall be made to the holders of the Common Stock, the amount per share fixed by the resolution or resolutions of the Board of Directors to be received by the holders of shares of each such series on such voluntary or involuntary liquidation, dissolution or winding-up, as the case may be. If such payment shall have been made in full, to the holders of all outstanding Preferred Stock of all series, or duly provided for, the remaining assets of the Corporation shall be available for distribution among the holders of the Common Stock. If upon any such liquidation, dissolution or winding-up, the net assets of the Corporation available for distribution among the holders of any one or more series of the Preferred Stock which (x) are entitled to a preference over the holders of the Common Stock upon such liquidation, dissolution or winding-up, and (y) rank equally in connection therewith, shall be insufficient to make payment in full of the preferential amount to which the holders of such shares shall be entitled, then such assets shall be distributed among the holders of each such series of the Preferred Stock ratably according to the respective amounts to which they would be entitled in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. Neither the consolidation or merger of the Corporation, nor the sale, lease or conveyance of all or part of its assets, shall be deemed a liquidation, dissolution or winding-up of the Corporation within the meaning of the foregoing provisions.

(f) Unless and except to the extent otherwise required by law or provided in the resolution or resolutions of the Board of Directors pursuant to this Section 2, the shares of Preferred Stock shall have no voting power with respect to any matter whatsoever, including, but not limited to, any action to

(i) increase the authorized number of shares of the Preferred Stock or of any series thereof,

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(ii) create shares of stock of any class ranking prior to or on a parity with any series of the Preferred Stock with respect to any preferences or voting powers, or

(iii) authorize a new series of the Preferred Stock having preferences or voting powers ranking prior to or on a parity with any series of the Preferred Stock with respect to any preferences or voting powers.

C. Limitations, Relative Rights and Powers in Respect of Shares of Common Stock.

(1) After the requirements with respect to preferential dividends, if any, on the Preferred Stock (fixed pursuant to Sections 1 and 2 of Section B of this Certificate) shall have been met and after the Corporation shall have complied with all the requirements, if any, with respect to the setting aside of sums as purchase, retirement or sinking funds (fixed pursuant to said Sections 1 and 2), then and not otherwise the holders of Common Stock shall be entitled to receive such dividends as may be declared from time to time by the Board of Directors.

(2) After distribution in full of the preferential amount, if any, (fixed pursuant to Sections 1 and 2) to be distributed to the holders of Preferred Stock in the event of the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, the holders of the Common Stock shall be entitled to receive all the remaining assets of the Corporation of whatever kind available for distribution to stockholders ratably in proportion to the number of shares of Common Stock held by them respectively.

(3) Except as may be otherwise required by law or by this Certificate of Incorporation, each holder of Common Stock shall have one vote in respect of each share of stock held by him on all matters voted upon by the stockholders.

Article V

In furtherance and not in limitation of the powers conferred under the corporation laws of Delaware, the Board of Directors of the Corporation is expressly authorized to make by-laws not inconsistent with law or with its certificate of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its stockholders, directors, officers or employees, and to alter, amend or repeal same from time to time.

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STATE OF TEXAS)
) SS.
COUNTY OF DALLAS)

BE IT REMEMBERED that on this 25th day of October, A. D., 1967, personally came before me, a Notary Public in and for the county and state aforesaid, John Lawrence and J. D. Mayson, President and Secretary, respectively, of Dresser Industries, Inc., a corporation of the State of Delaware and one of the corporations described in and which executed the foregoing Joint Plan and Agreement of Merger, known to me personally to be such, and they, the said John Lawrence and J. D. Mayson as such President and Secretary, respectively, duly executed said Joint Plan and Agreement of Merger before me and acknowledged said Joint Plan and Agreement of Merger to be the act, deed and agreement of said Dresser Industries, Inc., that the signatures of the said President and the Secretary of said corporation to said foregoing Joint Plan and Agreement of Merger are in the handwriting of the said President and Secretary of said Dresser Industries, Inc., and that the seal affixed to said Joint Plan and Agreement of Merger is the common corporate seal of said corporation and the facts stated in the Joint Plan and Agreement of Merger are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

Kathie Cook
Notary Public

KATHIE COOK Notary Public,
in and for Dallas County, Texas
My commission expires June 1, 1969

(NOTARIAL SEAL)

CERTIFICATE

I, J. D. MAYSON, Secretary of Dresser Industries, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certify, as such Secretary and under the seal of the said corporation, that the Joint Plan and Agreement of Merger to which this certificate is attached, after having been first duly signed on behalf of the said corporation and having been signed on behalf of Harbison-Walker Refractories Company, a corporation of the State of Pennsylvania, was duly submitted to the stockholders of said Dresser Industries, Inc., at a Special Meeting of said stockholders called and held separately from the meeting of stockholders of any other corporation after at least 20 days' notice by mail as provided by section 252 and section 251 of Title 8 of the Delaware Code of 1953 on the 25th day of October, 1967, for the purpose of considering and taking action upon the proposed Joint Plan and Agreement of Merger; that 9,233,203 shares of stock of said corporation were on said date issued and outstanding; that the proposed Joint Plan and Agreement of Merger was approved by the stockholders by an affirmative vote representing at least two-thirds of the total number of shares of the outstanding capital stock of said corporation, and that thereby the Joint Plan and Agreement of Merger was at said meeting duly adopted as the act of the stockholders of said Dresser Industries, Inc., and the duly adopted agreement of said corporation.

WITNESS my hand and the seal of said Dresser Industries, Inc., on this 25th day of October, 1967.

J. D. Mayson

J. D. Mayson, Secretary

(Corporate Seal)

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STATE OF TEXAS)
)SS:
COUNTY OF DALLAS)

BE IT REMEMBERED that on this 25th day of October, 1967, personally came before me, a Notary Public in and for the county and state aforesaid, J. D. Mayson, known to me to be Secretary of Dresser Industries, Inc., a corporation of the State of Delaware, and he the said J. D. Mayson as such Secretary duly executed the foregoing Certificate before me and acknowledged said Certificate to be his act and deed as said Secretary of said corporation, that the signature of the said Secretary of said corporation to said foregoing Certificate is in his handwriting as such Secretary, that the seal affixed to said Certificate is the common corporate seal of the corporation, and the facts stated in said Certificate are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day year aforesaid.

Kathie Cook
Notary Public

KATHIE COOK, Notary Public,
in and for Dallas County, Texas
My commission expires June 1, 1969

(NOTARIAL-SEAL)

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