

State of New York }
Department of State } ss.:

19079

I hereby certify that I have compared the annexed copy with the original document filed by the Department of State and that the same is a correct transcript of said original.

APR 6 1983

Witness my hand and seal of the Department of State on



Secretary of State

USC

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF

ALLIED CORPORATION

Under Section 905 of the
Business Corporation Law

USC

WE, THE UNDERSIGNED, BRIAN D. FORROW, SENIOR Vice President and General Counsel, and VICTOR FUTTER, Vice President and Secretary, of Allied Corporation, a corporation organized under the laws of the State of New York (hereinafter called the "corporation"), do hereby certify as follows:

1. The name of the corporation is Allied Corporation. The name under which the corporation was formed is Allied Chemical & Dye Corporation.

2. The Certificate of Incorporation of the corporation was filed by the Department of State on December 17, 1920. A Restated Certificate of Incorporation of the corporation was filed by such Department on October 27, 1981. A Certificate of Amendment of the Certificate of Incorporation of the corporation was filed by such Department on December 17, 1982.

3. The Restated Certificate of Incorporation of the corporation, as amended, is hereby further amended by the addition to Article THIRD thereof of provisions stating the number, designation, relative rights, preferences and limitations of a series of the Preferred Stock, said series being the Series F Preferred Shares, as fixed by the Board of Directors, the amended Article THIRD to read as follows:

THIRD: The authorized amount of the capital stock of the corporation and the number and par value of the shares of which it is to consist are 100,000,000 shares of Common Stock, par value \$1 per share, having an aggregate par value of \$100,000,000, and 10,000,000 shares of Preferred Stock, without par value.

Series A Preferred Shares, Series B Preferred Shares, Series C Preferred Shares, Series D Preferred Shares, Series E Preferred Shares and Series F Preferred Shares

The number, designation, relative rights, preferences and limitations of the Series A Preferred Shares, the Series B Preferred Shares, the Series C Preferred Shares, the Series D Preferred Shares, the Series E Preferred Shares and the Series F Preferred Shares are as follows (certain capitalized terms being herein used as defined in Clause (14) below):

(1) *Number of Shares.* 200,000 shares of the Preferred Stock shall be Series A Preferred Shares, 60,000 shares of the Preferred Stock shall be Series B Preferred Shares, 3,768,142 shares of the Preferred Stock shall be Series C Preferred Shares, 1,630,319 shares of the Preferred Stock shall be Series D Preferred Shares, 1,000 shares of the Preferred Stock shall be Series E Preferred Shares and 2,940,000 shares of the Preferred Stock shall be Series F Preferred Shares.

(2) *Designation of Shares.* The Series A Preferred Shares shall be designated as the \$91.25 Series A Cumulative Preferred Shares ("Series A Shares"), without par value, of the corporation, the Series B Preferred Shares shall be designated as the \$86.25 Series B Cumulative Preferred Shares ("Series B Shares"), without par value, of the corporation, the Series C Preferred Shares shall be designated as the \$6.74 Series C Cumulative Convertible Preferred Shares ("Series C Shares"), without par value, of the corporation, the Series D Preferred Shares shall be designated as the \$12 Series D Cumulative Convertible Preferred Shares ("Series D Shares"), without par value, of the corporation, the Series E Preferred Shares shall be designated as the Adjustable Rate Series E Cumulative Preferred Shares ("Series E Shares"), without par value, of the corporation, and the Series F Preferred Shares shall be designated as the Adjustable Rate Series F Cumulative Preferred Shares ("Series F Shares"), without par value, of the corporation.

(3) *Dividends.* The dividend rate on the Series A Shares shall be \$91.25 per share per annum, the dividend rate on the Series B Shares shall be \$86.25 per share per annum, the dividend rate on the Series C Shares shall be \$6.74 per share per annum, the dividend rate on the Series D Shares shall be

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\$12 per share per annum, the initial dividend on the Series E Shares will be payable on the earlier of the date of any required redemption of the Series E Shares pursuant to Clause (5)E below or June 30, 1983, in an amount per share computed by multiplying \$1,193,674.47 by 10.85% and further multiplying the result by a fraction, the numerator of which shall be the number of days elapsed from the date of issuance of the Series E Shares to the date such dividend is payable and the denominator of which shall be 360, when and as declared by the Board of Directors out of funds legally available for the payment of dividends; thereafter, the dividend rate per share on the Series E Shares shall be computed for each dividend period by multiplying \$1,193,674.47 by the Applicable Rate for such period and dividing the result by four; provided, however, that the amount of dividends payable for any period shorter than a full dividend period shall be computed on the basis of a 360-day year consisting of twelve 30-day months and the actual number of days elapsed in such period, and the dividend rate per share on the Series F Shares shall be computed for each dividend period by multiplying \$100 by the Applicable Rate for such period (or, in the case of the initial dividend payable on the Series F Shares, by multiplying \$100 by 10.85%) and dividing the result by four; provided, however, that the amount of dividends payable for any period shorter than a full dividend period shall be computed on the basis of a 360-day year consisting of twelve 30-day months and the actual number of days elapsed in such period. The Applicable Rate on the Series E Shares and the Series F Shares with respect to each dividend period shall be calculated as promptly as practicable by the corporation in accordance with the provisions of this Article THIRD, and the mathematical accuracy of each such calculation shall be confirmed in writing by independent accountants of recognized standing. The corporation shall cause notice of each Applicable Rate to be enclosed with the dividend payment checks next mailed to the holders of the Series E Shares or the Series F Shares. Dividends on the Series A Shares, on the Series B Shares, on the Series C Shares, on the Series D Shares, on the Series E Shares and on the Series F Shares shall be fully cumulative and shall accrue, without interest, in the case of the Series A Shares, Series B Shares, Series C Shares, Series D Shares and Series F Shares, from the date of issuance of such Shares, and, in the case of the Series E Shares, on and from the earlier of the date of any required redemption of the Series E Shares pursuant to Clause (5)E below or June 30, 1983, and shall be payable quarterly, when and as declared by the Board of Directors out of funds legally available for the payment of dividends, (i) on the 15th day of January, April, July and October in each year, commencing October 15, 1979 for the Series A Shares and Series B Shares, (ii) on the 15th day of February, May, August and November in each year, commencing November 15, 1981 for the Series C Shares, (iii) on the 1st day of March, June, September and December in each year commencing March 1, 1982 for the Series D Shares, (iv) on the last day of March, June, September and December in each year, commencing September 30, 1983 for the Series E Shares, and (v) on the last day of March, June, September and December in each year, commencing March 31, 1983 for the Series F Shares. Holders of Series A Shares, holders of Series B Shares, holders of Series C Shares, holders of Series D Shares, holders of Series E Shares and holders of Series F Shares shall be entitled to receive such dividends in preference to and in priority over dividends upon the Common Shares and all Junior Shares. The Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares and the Series F Shares shall be on a parity as to dividends with each other and with all Parity Shares. The Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares and the Series F Shares shall be junior as to dividends to all Senior Shares. The holders of the Series A Shares, the holders of the Series B Shares, the holders of the Series C Shares, the holders of the Series D Shares, the holders of the Series E Shares and the holders of the Series F Shares shall not be entitled to any dividends other than the cash dividends provided for in this Clause.

If at any time the corporation has failed to pay accrued dividends on any Series A Shares, any Series B Shares, any Series C Shares, any Series D Shares, any Series E Shares, any Series F Shares or any Parity Shares at the time outstanding at the times such dividends are payable, or has failed to pay the dividend due on the Series E Shares at the time of required redemption of the Series E Shares pursuant to Clause (5)E below, the corporation shall not (i) declare or pay any dividend on the Common Shares or on any Junior Shares or make any payment on account of, or set apart money for a sinking or other analogous fund for, the purchase, redemption or other retirement of, any Common Shares or any Junior Shares or make any distribution in respect thereof, either directly or indirectly and whether in cash or property or in obligations or shares of the corporation (other than in Common

Shares or Junior Shares), (ii) purchase any Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares or Parity Shares or redeem (by way of sinking fund retirement pursuant to Clause (5) below or otherwise) fewer than all of the Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares and Parity Shares then outstanding, or (iii) permit any corporation or other entity directly or indirectly controlled by the corporation to purchase any Senior Shares, Common Shares, Junior Shares, Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares or Parity Shares. Unless and until all dividends accrued but unpaid on the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares, the Series F Shares and any Parity Shares at the time outstanding at the time such dividends are payable have been paid in full, all dividends declared by the corporation upon such Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares or Parity Shares shall be declared pro rata with respect to all Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares and Parity Shares then outstanding, so that the amounts of any dividends declared on the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares, the Series F Shares and such Parity Shares shall in all cases bear to each other the same ratio that, at the time of such declaration, all accrued but unpaid dividends on the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares, the Series F Shares and such Parity Shares, respectively, bear to each other.

(4) *Optional Redemptions.* A. Subject to the restrictions in Clause (3) above and Clauses (6) and (8) below, the Series A Shares shall be redeemable at the option of the corporation at any time after July 14, 1984, as a whole or from time to time in part, at \$1.067.24 per share if redeemed prior to July 16, 1985 and at the following redemption prices per share if redeemed during the 12-month period ending July 15,

<u>Year</u>	<u>Redemption Price</u>	<u>Year</u>	<u>Redemption Price</u>
1986	\$1,062.43	1993	\$1,028.82
1987	1,057.63	1994	1,024.01
1988	1,052.83	1995	1,019.21
1989	1,048.03	1996	1,014.41
1990	1,043.22	1997	1,009.61
1991	1,038.42	1998	1,004.80
1992	1,033.62		

and at \$1,000 per share if redeemed at any time after July 15, 1998, plus, in each case, an amount equal to the dividends accrued and unpaid thereon to the redemption date.

B. Subject to the restrictions in Clause (3) above and Clauses (6) and (8) below, the Series B Shares shall be redeemable at the option of the corporation at any time after July 14, 1984, as a whole or from time to time in part, at \$1,038.33 per share if redeemed prior to July 16, 1985 and at the following redemption prices per share if redeemed during the 12-month period ending July 15,

<u>Year</u>	<u>Redemption Price</u>
1986	\$1,028.75
1987	1,019.17
1988	1,009.58

and at \$1,000 per share if redeemed after July 15, 1988, plus, in each case, an amount equal to the dividends accrued and unpaid thereon to the redemption date.

C. Subject to the restrictions in Clause (3) above and Clause (6) below, the Series C Shares shall be redeemable at the option of the corporation at any time after August 14, 1986, as a whole or from time to time in part, at the following redemption prices per share if redeemed during the 12-month period ending August 15,

D. Subject to the restrictions in Clause (3) above, as a sinking fund for the retirement of Series D Shares, but only to the extent of assets of the corporation legally available therefor, the corporation on September 1, 1991, and on each September 1 thereafter to and including September 1, 2020 (so long as any of the Series D Shares are outstanding) (such dates being hereafter referred to as "Sinking Fund Dates") shall redeem 2.5% of the number of Series D Shares originally outstanding (or the number of the Series D Shares then outstanding, if less than 2.5%) in each of years 1991 through 2010, and 5% of the number of Series D Shares originally outstanding (or the number of the Series D Shares then outstanding, if less than 5%) in each of years 2011 through 2020, in each case at a price of \$100 per share, plus an amount equal to the dividends accrued and unpaid thereon to the redemption date. The corporation shall be entitled to credit against the number of shares required to be redeemed on any Sinking Fund Date Series D Shares otherwise acquired by the corporation in any manner whatsoever and not previously credited against any such redemption.

E. Subject to the restrictions in Clause (3) above:

(a) In the event that at the meeting of the corporation's shareholders convened in accordance with Section 9.3 of the Agreement and Plan of Merger (the "Agreement"), dated as of September 24, 1982, as amended as of November 12, 1982, by and among the corporation, AC Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of the corporation ("AC Acquisition"), and The Bendix Corporation, a Delaware corporation ("Bendix"), providing for the merger of AC Acquisition with and into Bendix (the "Merger") or any adjournment thereof the corporation's shareholders shall not approve the issuance of the Common Stock issuable pursuant to the Agreement, or the corporation breaches Section 9.3 of the Agreement, or the Agreement is otherwise terminated pursuant to Section 11.1 thereof, in each case at any time on or prior to April 29, 1983, then the Series E Shares shall be redeemed by the corporation no later than April 30, 1983 in exchange for:

(i) 11,900,100 shares of Common Stock, par value \$5 per share, of Bendix ("Bendix Common Stock"); and

(ii) Parity Shares having a net cash value of not less than \$301,166,970 and such provisions as would make such Parity Shares saleable to an institutional investor; *provided, however,* that if Bendix notifies the corporation in writing that such Parity Shares cannot be sold on the date of redemption in a single block for net cash proceeds of not less than \$301,166,970, then in lieu of such Parity Shares, the corporation shall deliver cash, market rate notes, shares of a different class or series of Preferred Stock, or any combination of the foregoing, as the corporation shall elect (the "Alternative Consideration"), which can be sold on the date of redemption for aggregate net cash proceeds of not less than \$301,166,970, *provided, further,* that if Bendix notifies the corporation in writing that such Alternative Consideration cannot be sold on the date of redemption for aggregate net cash proceeds of not less than \$301,166,970, then in lieu of such Alternative Consideration, the corporation shall deliver solely cash in the amount of \$301,166,970.

(b) In the event that subsequent to April 29, 1983, but on or prior to June 30, 1983, at the meeting of the corporation's shareholders convened in accordance with Section 9.3 of the Agreement or any adjournment thereof the corporation's shareholders shall not approve the issuance of Common Stock issuable pursuant to the Agreement, or the corporation breaches Section 9.3 of the Agreement, then the Series E Shares shall be redeemed by the corporation on the earlier of June 30, 1983 or thirty-one days subsequent to the date of the meeting of the corporation's shareholders or the breach by the corporation of Section 9.3 of the Agreement, as the case may be, in exchange for:

(i) 11,900,100 shares of Bendix Common Stock; and

(ii) Junior Shares having a net cash value of not less than \$301,166,970 and such provisions as would make such Junior Shares saleable to an institutional investor; *provided, however,* that if the corporation's shareholders shall not have approved an amendment to this Restated Certificate of Incorporation authorizing the issuance of such Junior Shares or Bendix notifies the corporation in writing that such Junior Shares cannot be sold on the date of

redemption in a single block for net cash proceeds of not less than \$301,166,970, then in lieu of delivering such Junior Shares, the corporation shall deliver the Alternative Consideration, which can be sold on the date of redemption for aggregate net cash proceeds of not less than \$301,166,970; *provided, further*, that if Bendix notifies the corporation in writing that such Alternative Consideration cannot be sold on the date of redemption for aggregate net cash proceeds of not less than \$301,166,970, then in lieu of such Alternative Consideration, the corporation shall deliver solely cash in the amount of \$301,166,970.

(c) In the event that the Merger shall not have been completed by June 30, 1983 for any reason other than as set forth in Clause (5)E(a) or Clause (5)E(b) above, then the Series E Shares shall be redeemed by the corporation on June 30, 1983 in exchange for:

(i) Junior Shares having a net cash value of not less than \$892,507,500 and paying dividends at a rate per share per annum of not less than the Applicable Rate, *provided, however*, that if the corporation's shareholders shall not have approved an amendment to this Restated Certificate of Incorporation authorizing such Junior Shares or Bendix notifies the corporation in writing that such Junior Shares cannot be sold on the date of redemption in a single block for net cash proceeds of not less than \$892,507,500, then in lieu of delivering such Junior Shares, the corporation shall deliver the Alternative Consideration, which can be sold on the date of redemption for aggregate net proceeds of not less than \$892,507,500; *provided, further*, that if Bendix notifies the corporation in writing that such Alternative Consideration cannot be sold on the date of redemption for aggregate net cash proceeds of not less than \$892,507,500, then in lieu of such Alternative Consideration, the corporation shall deliver solely cash in the amount of \$892,507,500; notwithstanding the foregoing, if the Agreement shall have been terminated pursuant to Section 11.1(a), then in lieu of delivering such Junior Shares or the Alternative Consideration, the corporation shall deliver 11,900,100 shares of Bendix Common Stock, and the corporation may, at its sole option and election, deliver 11,900,100 shares of Bendix Common Stock in lieu of any consideration otherwise deliverable pursuant to this Clause (5)E(c)(i); and

(ii) the consideration set forth in Clause (5)E(b)(ii) above.

(d) Notwithstanding anything herein to the contrary, any securities deliverable by the corporation pursuant to this Clause (5)E shall be deemed to be saleable on the date of redemption, and any Bendix notice to the contrary shall not be effective, if on the date of redemption a person (or persons) of recognized national financial standing is prepared to purchase such securities and has unconditionally tendered to Bendix on such date a net amount in immediately available funds that is not less than the applicable amount of net cash proceeds to be received for such securities as provided in this Clause (5)E.

(6) *Provisions Applicable to Redemptions.* Not less than thirty (30) nor more than sixty (60) days prior to the date fixed for any redemption of Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares pursuant to Clause (4) above or Clause (7) below, a notice specifying the time and place of such redemption and the number of shares to be redeemed shall be given by first class mail, postage prepaid, to the holders of record of the Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares to be redeemed at their respective addresses as the same shall appear on the books of the corporation, but no failure to mail such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for redemption. Any notice which was mailed in the manner herein provided shall be conclusively presumed to have been duly given whether or not the holder receives the notice.

Unless the corporation shall fail to pay, upon surrender of the certificates evidencing the shares to be redeemed, the redemption price of any Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares called for redemption as provided herein, from and after the date fixed for the redemption of such Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares by the corporation, dividends shall cease to accrue on the Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares to be redeemed and the holders of such shares shall cease to be stockholders with respect to such shares.

and shall have no interest in or claims against the corporation by virtue thereof and shall have no voting or other rights, including, in the case of the Series C Shares and Series D Shares, the right to convert such shares into Common Shares pursuant to Clause (11) below, with respect to such shares, except the right to receive the moneys payable upon such redemption from the corporation, without interest thereon, upon surrender (and endorsement, if required by the corporation) of their certificates, and the shares evidenced thereby shall no longer be deemed to be outstanding.

The obligations of the corporation to make sinking fund retirements of Series A Shares, Series B Shares, Series C Shares and Series D Shares annually, pursuant to Clause (5) above, shall be cumulative and, if at any time any sinking fund retirement required by Clause (5) above shall be in arrears, the corporation shall not (i) declare or pay any dividend on the Common Shares or on any Junior Shares or make any payment on account of, or set apart money for a sinking or other analogous fund for, the purchase, redemption or other retirement of any Common Shares or any Junior Shares or make any distribution in respect thereof, either directly or indirectly and whether in cash or property or in obligations or shares of the corporation (other than in Common Shares or Junior Shares), (ii) purchase any Senior Shares, Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares or Parity Shares or redeem any such shares except for required sinking fund retirements pursuant to Clause (5) above, required sinking fund retirements under the provisions of this Certificate of Incorporation applicable to Parity Shares or Senior Shares or the required redemption of Series E Shares pursuant to Clause (5) E above, or (iii) permit any corporation or other entity directly or indirectly controlled by the corporation to purchase any Common Shares, Junior Shares, Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares, Parity Shares or Senior Shares, provided that so long as any such required sinking fund retirement with respect to the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares or any Parity Shares shall be in arrears, all payments on account of such required sinking fund retirements shall be made pro rata with respect to all Series A Shares, Series B Shares, Series C Shares, Series D Shares and Parity Shares then outstanding, so that the amount of such payments shall in all cases bear to each other the same ratio that the respective amounts which would be necessary to discharge in full all such required sinking fund retirements in arrears bear to each other.

(7) *Additional Optional Redemptions.* Subject to the restrictions in Clauses (3) and (6) above and Clause (8) below, the corporation may, at its option, (i) on July 15, 1985, and on each July 15 thereafter, redeem, in addition to the number of Series A Shares or Series B Shares, respectively, then to be retired for the sinking funds pursuant to Clause (5) above, an additional number of Series A Shares or Series B Shares equal to the number of Series A Shares or Series B Shares, respectively, required to be retired for such sinking funds on such date pursuant to the applicable provisions of such Clause (5), in each case at a price of \$1,000 per share plus an amount equal to the dividends accrued and unpaid thereon to the redemption date, (ii) on August 15, 1991, and on each August 15 thereafter, redeem, in addition to the number of Series C Shares then to be retired for the sinking fund pursuant to Clause (5) above, an additional number of Series C Shares equal to the number of Series C Shares required to be retired for such sinking fund on such date pursuant to the applicable provisions of such Clause (5), in each case at a price of \$55 per share, plus an amount equal to the dividends accrued and unpaid thereon to the redemption date, and (iii) on September 1, 1991 and on each September 1 thereafter, redeem, in addition to the number of Series D Shares then to be retired for the sinking fund pursuant to Clause (5) above, an additional number of Series D Shares equal to the number of Series D Shares required to be retired for such sinking fund on such date pursuant to the applicable provisions of such Clause (5), in each case at a price of \$100 per share, plus an amount equal to the dividends accrued and unpaid thereon to the redemption date, each of which options shall be non-cumulative.

(8) *Refunding Restriction.* A. Prior to July 15, 1989 no Series A Shares shall be redeemed pursuant to Clause (4) or Clause (7) above if such redemption is part of or in anticipation of any refunding operation involving the application, directly or indirectly, of borrowed funds or the proceeds of the issue of any Preference Shares and (i) such borrowed funds have an interest rate or an effective cost of money to the corporation or any corporation or other entity directly or indirectly controlled by the corporation (calculated on a pre-tax basis in accordance with generally accepted financial practice).

of less than 9 1/4% per annum or (ii) such Preference Shares shall entitle the holders thereof to an effective annual dividend per share of less than 9 1/4% of the original issue price per share.

B. No Series B Shares shall be redeemed pursuant to Clause (4) or Clause (7) above if such redemption is a part of or in anticipation of any refunding operation involving the application, directly or indirectly, of borrowed funds or the proceeds of the issue of any Preference Shares and (i) such borrowed funds have an interest rate or an effective cost of money to the corporation or any corporation or other entity directly or indirectly controlled by the corporation (calculated on a pre-tax basis in accordance with generally accepted financial practice) of less than 8 3/4% per annum or (ii) such Preference Shares shall entitle the holders thereof to an effective annual dividend per share of less than 8 3/4% of the original issue price per share.

(9) *Redemption Procedure.* In every case of redemption or sinking fund retirement, as the case may be, of less than all of the outstanding Series A Shares or Series B Shares, pursuant to Clause (4), Clause (5) or Clause (7) above, such redemption or sinking fund retirement, as the case may be, as nearly as practicable shall be made pro rata among the holders thereof according to the number of Series A Shares or Series B Shares, as the case may be, held by the respective holders, and otherwise (but not affecting the pro rata allocation) in such manner as may be prescribed by resolution of the Board of Directors, provided that only whole shares shall be selected for redemption or sinking fund retirement. Redemption or sinking fund retirement of less than all of the outstanding Series C Shares, Series D Shares, Series E Shares or Series F Shares shall be made in such manner as may be prescribed by the corporation and need not be made pro rata.

(10) *Liquidation.* A. The liquidation price of the Series A Shares, in case of the voluntary liquidation, dissolution or winding up of the corporation prior to July 16, 1985, shall be an amount equal to the applicable voluntary liquidation price per share specified below if the date of such voluntary liquidation, dissolution or winding up is during the 12-month period ending July 15,

<u>Year</u>	<u>Voluntary Liquidation Price</u>
1980.....	\$1,091.25
1981.....	1,086.45
1982.....	1,081.64
1983.....	1,076.84
1984.....	1,072.04
1985.....	1,067.24

and, in the case of any such voluntary liquidation, dissolution or winding up of the corporation after July 15, 1985 shall be an amount equal to the redemption price per share specified in Clause (4)A above applicable on the date of such voluntary liquidation, dissolution or winding up, plus, in each case, an amount equal to the dividends accrued and unpaid thereon to the payment date.

B. The liquidation price of the Series B Shares, in case of the voluntary liquidation, dissolution or winding up of the corporation prior to July 16, 1985 shall be an amount equal to the applicable voluntary liquidation price per share specified below if the date of such voluntary liquidation, dissolution or winding up is during the 12-month period ending July 15,

<u>Year</u>	<u>Voluntary Liquidation Price</u>
1980.....	\$1,086.25
1981.....	1,076.67
1982.....	1,067.08
1983.....	1,057.50
1984.....	1,047.92
1985.....	1,038.33

and, in the case of any such voluntary liquidation, dissolution or winding up of the corporation after July 15, 1985 shall be an amount equal to the redemption price per share specified in Clause (4)B above applicable on the date of such voluntary liquidation, dissolution or winding up, plus, in each case, an amount equal to the dividends accrued and unpaid thereon to the payment date.

C. The liquidation price of both the Series A Shares and the Series B Shares, in case of the voluntary liquidation, dissolution or winding up of the corporation, shall be \$1,000 per share, plus an amount equal to the dividends accrued and unpaid thereon to the payment date.

D. The liquidation price of the Series C Shares in case of the voluntary or involuntary liquidation, dissolution or winding up of the corporation shall be \$55 per share, plus an amount equal to the dividends accrued and unpaid thereon to the payment date.

E. The liquidation price of the Series D Shares in case of the voluntary or involuntary liquidation, dissolution or winding up of the corporation shall be \$100 per share, plus an amount equal to the dividends accrued and unpaid thereon to the payment date.

F. The liquidation price of the Series E Shares in case of the voluntary or involuntary liquidation, dissolution or winding up of the corporation shall be \$1,193,674.47 per share, plus an amount equal to the dividends accrued and unpaid thereon to the payment date.

G. The liquidation price of the Series F Shares in case of the voluntary or involuntary liquidation, dissolution or winding up of the corporation shall be \$100 per share, plus an amount equal to the dividends accrued and unpaid thereon to the payment date.

H. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation, the holders of Series A Shares, the holders of Series B Shares, the holders of Series C Shares, the holders of Series D Shares, the holders of Series E Shares and the holders of Series F Shares (i) shall not be entitled to receive the liquidation price of such shares held by them until the liquidation price of all Senior Shares shall have been paid in full and (ii) shall be entitled to receive the liquidation price of such shares held by them in preference to and in priority over any distributions upon the Common Shares and all Junior Shares. If the assets of the corporation are not sufficient to pay in full the liquidation price payable to the holders of the Series A Shares, the holders of the Series B Shares, the holders of the Series C Shares, the holders of the Series D Shares, the holders of the Series E Shares and the holders of the Series F Shares, and the liquidation price payable to the holders of all Parity Shares, the holders of all such shares shall share ratably in such distribution of assets in accordance with the amounts which would be payable on such distribution if the amounts to which the holders of Series A Shares, the holders of Series B Shares, the holders of Series C Shares, the holders of Series D Shares, the holders of Series E Shares, the holders of Series F Shares and the holders of Parity Shares are entitled were paid in full.

(11) *Convertibility.* A. Neither the Series A Shares, the Series B Shares, the Series E Shares nor the Series F Shares shall be convertible into any other securities of the corporation.

B. The Series C Shares shall be convertible at any time at the option of the holders of the Series C Shares into Common Shares at a rate of 0.786 Common Shares for each Series C Share at the office of any duly appointed transfer agent for the Series C Shares, and at such other office or offices, if any, as the Board of Directors of the corporation may determine, and the Series D Shares shall be convertible at any time at the option of the holders of the Series D Shares into Common Shares at a rate of 1.351 Common Shares for each Series D Share at the office of any duly appointed transfer agent for the Series D Shares and at such other office or offices, if any, as the Board of Directors of the corporation may determine; provided, however, that in case of the redemption of any Series C Shares or Series D Shares, such right of conversion shall cease and terminate, as to the shares called for redemption, at the close of business on the day next prior to the date fixed for redemption, unless default shall be made in the payment of the redemption price. Upon conversion, the corporation shall make no payment or adjustment on account of dividends accrued or in arrears on the Series C Shares or Series D Shares surrendered for conversion or on account of any dividends on the Common Shares issued on such conversion. Before any holder of Series C Shares or Series D Shares shall be entitled to convert the same into Common Shares, such holder shall surrender the certificate or certificates for such Series C Shares or Series D Shares at any office hereinabove mentioned, which certificate or certificates shall be duly endorsed to the corporation or in blank or accompanied by proper instruments of transfer to the corporation or in blank, unless the corporation shall waive such requirement, and shall give written notice to the corporation at any of said offices that such holder elects so to convert said Series C Shares

or Series D Shares, and shall state in writing therein the name or names in which such holder wishes the certificate or certificates for Common Shares to be issued.

The corporation will as soon as practicable after such surrender of certificates for Series C Shares or Series D Shares accompanied by the written notice and the statement above prescribed, issue and deliver at the office of any transfer agent appointed as aforesaid, or at such other office or offices, if any, to the person for whose account such Series C Shares or Series D Shares were so surrendered, or to such person's nominee or nominees, certificates for the number of full Common Shares to which such person shall be entitled as aforesaid, together with a cash adjustment for any fraction of a share as hereinafter stated. Subject to the following provisions of this Clause (11)B, such conversion shall be deemed to have been made as of the date of such surrender of the Series C Shares or Series D Shares to be converted and the rights of the converting holder of the Series C Shares or Series D Shares as such holder shall cease and the person or persons in whose name or names the certificates for Common Shares upon conversion of such Series C Shares or Series D Shares are to be issued shall be treated for all purposes as the record holder or holders of such Common Shares at the close of business on such date. In the event of any liquidation, dissolution or winding up of the affairs of the corporation, all conversion rights of the holders of Series C Shares and Series D Shares shall terminate on the date fixed by resolution of the Board of Directors of the corporation, which date shall not be later than 10 days nor earlier than 20 days prior to such liquidation, dissolution or winding up. The conversion rate for the Series C Shares and Series D Shares is subject to adjustment from time to time as follows:

(a) In case the corporation shall at any time (i) declare a dividend on the Common Shares or shares of its capital stock, (ii) subdivide the outstanding Common Shares, (iii) combine the outstanding Common Shares into a smaller number of shares, or (iv) issue any shares of its capital stock by reclassification of the Common Shares (including any such reclassification in connection with a consolidation or merger in which the corporation is the surviving corporation), the conversion rate in effect at the time of the record date for such dividend or of the effective date of such subdivision, combination or reclassification shall be proportionately adjusted so that the holder of any Series C Share or Series D Share converted after such time shall be entitled to receive the aggregate number and kind of shares which, if such Series C Share or Series D Share had been converted immediately prior to such time, the holder would have owned upon such conversion and been entitled to receive by virtue of such dividend, subdivision, combination or reclassification. Such adjustment shall be made successively whenever any event listed above shall occur.

(b) In case the corporation shall issue rights or warrants to all holders of Common Shares entitling them (for a period expiring within 45 days after the record date for the determination of shareholders entitled to receive such rights or warrants) to subscribe for or purchase Common Shares at a price per share less than the current market price per share (as defined in paragraph (d) of this Clause (11)B) on such record date, the conversion rate shall be adjusted by multiplying the conversion rate in effect immediately prior to such record date by a fraction, of which the numerator shall be the number of Common Shares outstanding on such record date plus the number of additional Common Shares to be offered for subscription or purchase and of which the denominator shall be the number of Common Shares outstanding on such record date plus the number of Common Shares which the aggregate offering price of the total number of Common Shares so to be offered would purchase at such current market price. Such adjustment shall become effective at the close of business on such record date; however, to the extent that Common Shares are not delivered after the expiration of such rights or warrants, the conversion rate shall be readjusted (but only with respect to Series C Shares and Series D Shares converted after such expiration) to the conversion rate which would then be in effect had the adjustments made upon the issuance of such rights or warrants been made upon the basis of delivery of only the number of Common Shares actually issued.

(c) In case the corporation shall distribute to all holders of Common Shares (including any such distribution made in connection with a consolidation or merger in which the corporation is the surviving corporation) evidences of its indebtedness or assets (other than cash dividends or distributions and dividends payable in Common Shares) or subscription rights or warrants (excluding those referred to in paragraph (b) of this Clause (11)B), the conversion rate shall be

or Series D Shares, and shall state in writing therein the name or names in which such holder wishes the certificate or certificates for Common Shares to be issued.

The corporation will as soon as practicable after such surrender of certificates for Series C Shares or Series D Shares accompanied by the written notice and the statement above prescribed, issue and deliver at the office of any transfer agent appointed as aforesaid, or at such other office or offices, if any, to the person for whose account such Series C Shares or Series D Shares were so surrendered, or to such person's nominee or nominees, certificates for the number of full Common Shares to which such person shall be entitled as aforesaid, together with a cash adjustment for any fraction of a share as hereinafter stated. Subject to the following provisions of this Clause (11)B, such conversion shall be deemed to have been made as of the date of such surrender of the Series C Shares or Series D Shares to be converted and the rights of the converting holder of the Series C Shares or Series D Shares as such holder shall cease and the person or persons in whose name or names the certificates for Common Shares upon conversion of such Series C Shares or Series D Shares are to be issued shall be treated for all purposes as the record holder or holders of such Common Shares at the close of business on such date. In the event of any liquidation, dissolution or winding up of the affairs of the corporation, all conversion rights of the holders of Series C Shares and Series D Shares shall terminate on the date fixed by resolution of the Board of Directors of the corporation, which date shall not be later than 10 days nor earlier than 20 days prior to such liquidation, dissolution or winding up. The conversion rate for the Series C Shares and Series D Shares is subject to adjustment from time to time as follows:

(a) In case the corporation shall at any time (i) declare a dividend on the Common Shares in shares of its capital stock, (ii) subdivide the outstanding Common Shares, (iii) combine the outstanding Common Shares into a smaller number of shares, or (iv) issue any shares of its capital stock by reclassification of the Common Shares (including any such reclassification in connection with a consolidation or merger in which the corporation is the surviving corporation), the conversion rate in effect at the time of the record date for such dividend or of the effective date of such subdivision, combination or reclassification shall be proportionately adjusted so that the holder of any Series C Share or Series D Share converted after such time shall be entitled to receive the aggregate number and kind of shares which, if such Series C Share or Series D Share had been converted immediately prior to such time, the holder would have owned upon such conversion and been entitled to receive by virtue of such dividend, subdivision, combination or reclassification. Such adjustment shall be made successively whenever any event listed above shall occur.

(b) In case the corporation shall issue rights or warrants to all holders of Common Shares entitling them (for a period expiring within 45 days after the record date for the determination of shareholders entitled to receive such rights or warrants) to subscribe for or purchase Common Shares at a price per share less than the current market price per share (as defined in paragraph (d) of this Clause (11)B) on such record date, the conversion rate shall be adjusted by multiplying the conversion rate in effect immediately prior to such record date by a fraction, of which the numerator shall be the number of Common Shares outstanding on such record date plus the number of additional Common Shares to be offered for subscription or purchase and of which the denominator shall be the number of Common Shares outstanding on such record date plus the number of Common Shares which the aggregate offering price of the total number of Common Shares so to be offered would purchase at such current market price. Such adjustment shall become effective at the close of business on such record date; however, to the extent that Common Shares are not delivered after the expiration of such rights or warrants, the conversion rate shall be readjusted (but only with respect to Series C Shares and Series D Shares converted after such expiration) to the conversion rate which would then be in effect had the adjustments made upon the issuance of such rights or warrants been made upon the basis of delivery of only the number of Common Shares actually issued.

(c) In case the corporation shall distribute to all holders of Common Shares (including any such distribution made in connection with a consolidation or merger in which the corporation is the surviving corporation) evidences of its indebtedness or assets (other than cash dividends or distributions and dividends payable in Common Shares) or subscription rights or warrants (excluding those referred to in paragraph (b) of this Clause (11)B), the conversion rate shall be

adjusted by multiplying the conversion rate in effect immediately prior to the record date for determination of shareholders entitled to receive such distribution by a fraction, of which the numerator shall be the current market price per Common Share (as defined in paragraph (d) of this Clause (11)B) on such record date and of which the denominator shall be such current market price per Common Share, less the fair market value (as determined by the Board of Directors, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets or subscription rights or warrants so to be distributed which are applicable to one Common Share. Such adjustment shall become effective at the close of business on such record date. If the corporation declares a cash dividend or distribution in an amount equal to or greater than 10% of the current market price per Common Share on the declaration date for such dividend or distribution, the corporation shall give at least 10 days prior written notice to all holders of record of Series C Shares and Series D Shares of the record date for determining those holders of Common Shares who will be entitled to receive such dividend or distribution.

(d) For the purpose of any computation under paragraphs (b) and (c) of this Clause (11)B, the current market price per Common Share on any record date shall be deemed to be the average of the daily closing prices for the 30 consecutive trading days on the New York Stock Exchange composite tape commencing 45 trading days before such date. The closing price of each day shall be the last sale price regular way or, in case no such sale takes place on such day, the average of the closing bid and asked prices regular way, in either case on the New York Stock Exchange composite tape or, if the Common Shares are not listed or admitted to trading on such exchange, on the principal national securities exchange on which the Common Shares are listed or admitted to trading, or if the Common Shares are not listed or admitted to trading on any national securities exchange the average of the highest reported bid and lowest reported asked prices as furnished by the National Association of Securities Dealers, Inc. through NASDAQ or a similar organization if NASDAQ is no longer reporting such information. If on any such date the Common Shares are not quoted by any such organization, the fair value of such Common Shares on such date, as determined by the Board of Directors, shall be used.

(e) In case of any capital reorganization of the corporation, or of any reclassification of the Common Shares (other than a reclassification of the Common Shares referred to in paragraph (a) of this Clause (11)B), or in case of the consolidation of the corporation with or the merger of the corporation with or into any other corporation or of the sale of the properties and assets of the corporation as, or substantially as, an entirety to any other corporation, each Series C Share and Series D Share shall after such capital reorganization, reclassification of Common Shares, consolidation, merger or sale be convertible into the number of shares of stock or other securities, assets or cash to which a holder of the number of Common Shares receivable (at the time of such capital reorganization, reclassification of Common Shares, consolidation, merger or sale) upon conversion of such Series C Share or Series D Share would have been entitled to receive upon such capital reorganization, reclassification of Common Shares, consolidation, merger or sale, and in any such case, if necessary, the provisions set forth in this Clause (11)B with respect to the rights and interests thereafter of the holders of the Series C Shares and Series D Shares shall be appropriately adjusted so as to be applicable, as nearly as may reasonably be, to any shares of stock or other securities, assets or cash thereafter deliverable on the conversion of the Series C Shares and Series D Shares. The subdivision or combination of Common Shares at any time outstanding into a greater or lesser number of shares shall not be deemed to be a reclassification of the Common Shares for the purposes of this paragraph. The corporation shall not effect any such consolidation, merger or sale, unless prior to or simultaneously with the consummation thereof the successor corporation (if other than the corporation) resulting from such consolidation or merger or the corporation purchasing such assets or other appropriate corporation or entity shall assume, by written instrument, the obligation to deliver to the holder of each Series C Share and Series D Share such shares of stock, securities or assets as, in accordance with the foregoing provisions such holders may be entitled to receive under this Clause (11)B.

(f) The corporation may make such increases in the conversion rate, so as to increase the number of Common Shares into which the Series C Shares and Series D Shares may be converted.

in addition to those required by paragraphs (a) through (e) of this Clause (11)B, as it considers to be advisable in order that any event treated for Federal income tax purposes as a dividend of stock or stock rights shall not be taxable to the recipients.

(g) No adjustment will be made for the issuance of shares to employees pursuant to the corporation's stock option, stock purchase and savings or other benefit plans or to shareholders pursuant to the corporation's dividend reinvestment plan. No adjustment will be required to be made in the conversion rate until cumulative adjustments require an adjustment of at least 1% of such conversion rate.

(h) Whenever the conversion rate is adjusted as herein provided, the corporation shall forthwith file with any transfer agent or agents for the Series C Shares or Series D Shares a certificate signed by the Chairman of the Board or one of the Vice Presidents of the corporation and by its Treasurer or an Assistant Treasurer, stating the adjusted conversion rate determined as provided in this Clause (11)B, and in reasonable detail the facts requiring such adjustment. Whenever the conversion rate is adjusted, the corporation will forthwith cause a notice stating the adjustment and the conversion rate to be mailed to the respective holders of record of Series C Shares and Series D Shares. Such transfer agents shall be under no duty to make any inquiry or investigation as to the statements contained in any such certificate or as to the manner in which any computation was made, but may accept such certificate as conclusive evidence of the statements therein contained, and each transfer agent shall be fully protected with respect to any and all acts done or action taken or suffered by it in reliance thereon. No transfer agent in its capacity as transfer agent shall be deemed to have any knowledge with respect to any change of capital structure of the corporation unless and until it receives a notice thereof pursuant to the provisions hereof and in default of any such notice each transfer agent may conclusively assume that there has been no such change.

The corporation shall at all times reserve and keep available out of its authorized and unissued Common Shares, solely for the purpose of effecting the conversion of Series C Shares and Series D Shares, such number of shares as shall from time to time be sufficient to effect the conversion of all Series C Shares and Series D Shares from time to time outstanding. The corporation shall from time to time, in accordance with the laws of New York, increase the authorized amount of Common Shares if at any time the number of Common Shares remaining unissued shall not be sufficient to permit the conversion of all the then outstanding Series C Shares and Series D Shares.

The corporation will pay any and all issue and other taxes (other than taxes based on income) that may be payable in respect of any issue or delivery of Common Shares on conversion of Series C Shares and Series D Shares 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 Common Shares in a name other than that in which the Series C Shares or Series D Shares 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.

No fractional Common Shares will be issued upon conversion, but any such fractions will be adjusted in cash on the basis of the then current market value of the Common Shares, which shall be deemed to be the average of the high and low sales prices regular way or, if no such sale takes place on such day, the average of the high bid and low asked prices regular way in either case on the New York Stock Exchange composite tape or, if the Common Shares are not listed or admitted to trading on such exchange, on the principal national securities exchange on which the Common Shares are listed or admitted to trading, or if the Common Shares are not listed or admitted to trading on any national securities exchange the average of the highest reported bid and lowest reported asked prices as furnished by the National Association of Securities Dealers, Inc. through NASDAQ or a similar organization if NASDAQ is no longer reporting such information. If on any such date the Common Shares are not quoted by any such organization, the fair value of such Common Shares on such date, as determined by the Board of Directors, shall be used.

(12) *Other Preference Shares.* So long as any Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares remain outstanding, the corporation shall not issue any Preference Shares which are not Senior Shares, Parity Shares or Junior Shares. All series of Preferred Shares, whether or not the dividend rates, the dividend payment dates or the redemption or liquidation prices per share thereof differ from those of the Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares and Series F Shares, shall be on a parity with all Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares and Series F Shares, at the time outstanding as to dividends and as to the distribution of assets on any voluntary and involuntary liquidation of the corporation. All Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares and Series F Shares which are redeemed pursuant to any provision of this Article THIRD shall be cancelled. No Preferred Shares which are issued, in addition to those designated as Series A Shares and Series B Shares in this Article THIRD as of September 18, 1979, those designated as Series C Shares as of July 31, 1981, those designated as Series D Shares as of October 27, 1981, those designated as Series E Shares as of December 21, 1982 and those designated as Series F Shares as of January 31, 1983, shall be designated as Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares.

(13) *Voting Rights.* Except as otherwise required by law, holders of Series A Shares, holders of Series B Shares, holders of Series E Shares and holders of Series F Shares shall have no voting rights; holders of Series C Shares and Series D Shares shall be entitled to vote on every question submitted to holders of record of the Common Shares, and shall be entitled to one vote for every Series C Share and one vote for every Series D Share standing in such holder's name on the books of the corporation voting together with the Common Shares as a single class; *provided, however, that:*

A. *Dividend Defaults.* (1) If and whenever accrued dividends on the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares or the Series F Shares or any Preferred Shares of any other series shall not have been paid in an aggregate amount equal to or greater than six (6) quarter-annual dividends on the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares or the Series F Shares or such other Preferred Shares at the time outstanding (each such series being, in this Clause (13)A, called a "series in arrears"), then, and in any such event, the number of Directors then constituting the entire Board of Directors of the corporation shall automatically be increased by two Directors and the holders of the shares of all series in arrears, voting together as a single class, shall be entitled to fill such newly created directorships. Such right to vote as a single class to elect two Directors shall, when vested, continue until all dividends in default on the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares, the Series F Shares and such other Preferred Shares, as the case may be, shall have been paid in full and, when so paid, such right to elect two Directors separately as a class shall cease, subject, always, to the same provisions for the vesting of such right to elect two Directors separately as a class in the case of future dividend defaults. At any time when such right to elect two Directors separately as a class shall have so vested the corporation may, and upon the written request of the holders of record of not less than 20% of the total number of shares of all series in arrears then outstanding shall, call a special meeting of the holders of such shares to fill such newly created directorships for the election of Directors. In the case of such a written request, such special meeting shall be held within ninety (90) days after the delivery of such request, and, in each case, at the place and upon the notice provided by law and in the By-laws of the corporation, *provided, that* the corporation shall not be required to call such a special meeting if such request is received less than one hundred twenty (120) days before the date fixed for the next ensuing annual meeting of shareholders of the corporation, at which meeting such newly created directorships shall be filled by the holders of the shares of each series in arrears, voting together as a single class.

(2) So long as any Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares are outstanding, the By-laws of the corporation shall contain provisions ensuring that the number of Directors constituting the entire Board of Directors of the corporation shall at all times be such that the exercise by the holders of the Series A Shares, the holders of the Series B Shares, the holders of the Series C Shares, the holders of the Series D Shares, the holders of the Series E Shares, the holders of the Series F Shares and the holders of Preferred Shares of any other series, of

the right to elect Directors under the circumstances provided for in paragraph (1) of this Clause (13)A will not contravene any provision of this Certificate of Incorporation restricting the number of Directors which may constitute the entire Board of Directors of the corporation.

(3) Directors elected pursuant to paragraph (1) of this Clause (13)A shall serve until the earlier of (i) the next annual meeting of the shareholders of the corporation and the election (by the holders of the shares of each series in arrears) and qualification of their respective successors or (ii) the next annual meeting of the shareholders of the corporation following the date upon which all dividends in default on the shares of each series in arrears shall have been paid in full. If, prior to the end of the term of any Director elected as aforesaid, a vacancy in the office of such Director shall occur during the continuance of a default in dividends on the shares of each series in arrears by reason of death, resignation, or disability, such vacancy shall be filled for the unexpired term by the appointment by the remaining Director elected as aforesaid of a new Director for the unexpired term of such former Director.

B. Miscellaneous. Without the affirmative vote of the holders of at least two-thirds of the outstanding Preferred Shares, voting as a single class (or, if less than all of the outstanding series of Preferred Shares would be adversely affected thereby, without the affirmative vote of the holders of at least two-thirds of the outstanding shares of each such series so affected, voting as a separate class), the corporation may not

(a) amend this Certificate of Incorporation so as to adversely affect the voting powers (except as such voting powers may be affected by the authorization of any additional Preferred Shares having the same voting rights as the outstanding Preferred Shares or by the authorization of any other shares of any class having voting rights which are not entitled to vote together with the Preferred Shares in any separate class vote of the Preferred Shares), rights or preferences of the Preferred Shares or such series;

(b) authorize or create any Senior Shares;

(c) issue any Parity Shares unless, after giving effect to such issuance and the application of the proceeds thereof, Consolidated Net Income for any period of twelve (12) consecutive months during the eighteen (18) months immediately preceding the date of such issuance would be equal to not less than 200% of the annual dividend requirements of all Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares, Series F Shares, Parity Shares and Senior Shares then to be outstanding; or

(d) effect any merger or consolidation or sale, transfer, lease or other disposition of all or substantially all of the assets of the corporation if (i) the plan of merger, consolidation or disposition of assets contains any provision which, if contained in an amendment to this Certificate of Incorporation, would entitle the holders of the Preferred Shares or any series thereof to a joint or separate class vote thereon as provided in paragraph (a) of this Clause (13)B, (ii) the effect of such transaction would be to create any Senior Shares, (iii) the corporation would not be the surviving corporation or (iv) the corporation would be in default under any of its material debt agreements.

C. Voting. Whenever the holders of the Preferred Shares are entitled to vote as a single class, each holder of Series A Shares or Series B Shares shall be entitled to one vote for each such share held of record and, to the extent permitted by applicable law, (1) each holder of shares of any other series of the Preferred Shares shall be entitled to one vote for each \$1,000 of the liquidation price (without regard to accrued dividends) in respect of the involuntary liquidation, dissolution or winding up of the corporation of the shares of such series for each such share held of record and (2) in the case of any such shares such liquidation price of which shall not be an integral multiple of \$1,000, including the Series C Shares, Series D Shares, Series E Shares and Series F Shares, each holder thereof shall be entitled to a vote in respect of each such share so held equal to the result obtained by multiplying one by a fraction, the numerator of which is a number equal to the number of dollars constituting such liquidation price of such share and the denominator of which is 1,000.

(14) *Certain Definitions.* As used in this Article THIRD, the following terms shall have the following respective meanings:

"Applicable Rate" shall mean, for any dividend period, the highest of the Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Twenty Year Constant Maturity Rate for such dividend period less 15/100 of 1%; provided, however, that the Applicable Rate for any dividend period shall in no event be less than 8% per annum nor greater than 15% per annum. In the event that the Board of Directors of the corporation determines in good faith that for any reason:

(i) any one of the Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Twenty Year Constant Maturity Rate cannot be determined for any dividend period, then the Applicable Rate for such dividend period shall be the higher of whichever two of such Rates can be so determined, less 15/100 of 1%;

(ii) only one of the Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Twenty Year Constant Maturity Rate can be determined for any dividend period, then the Applicable Rate for such dividend period shall be whichever such Rate can be so determined, less 15/100 of 1%; or

(iii) none of the Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Twenty Year Constant Maturity Rate can be determined for any dividend period, then the Applicable Rate in effect for the preceding dividend period shall be continued for such dividend period.

"Calendar Period" shall mean a period of fourteen calendar days.

"Common Shares" shall mean shares of Common Stock referred to in the first paragraph of this Article THIRD.

"Consolidated Net Income" shall mean, for any period, the aggregate of the net income (or net deficit) for such period, before non-recurring items, of the corporation and its consolidated subsidiaries determined in accordance with generally accepted accounting principles. For the purposes hereof, there shall not be included in the net income of the corporation and such consolidated subsidiaries:

(i) any gain from any write-up of assets not in the ordinary course of business after December 31, 1978;

(ii) earnings of a subsidiary accrued prior to the date it became a subsidiary;

(iii) earnings of any corporation, substantially all the assets of which have been acquired by the corporation or any of its subsidiaries in any manner, realized by such corporation prior to the date of such acquisition;

(iv) the earnings of any person to which assets of the corporation have been sold, transferred or disposed of, or into which the corporation shall have merged, prior to the date of such transaction;

(v) any income or gain arising from the acquisition of any securities of the corporation or any subsidiary;

(vi) net gains in excess of 5% of net income, before nonrecurring items, of the corporation and its consolidated subsidiaries on the sale of assets not in the ordinary course of business; and

(vii) unremitted earnings of unconsolidated subsidiaries.

"Junior Shares" shall mean Preference Shares of any series or class of the corporation which are by their terms expressly made junior to any Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares at the time outstanding as to dividends and as to the distribution of assets on any voluntary or involuntary liquidation of the corporation.

"Parity Shares" shall mean (i) Preferred Shares of any series other than the Series A Shares, the Series B Shares, the Series C Shares, the Series D Shares, the Series E Shares or the Series F Shares and (ii) any other Preference Shares which are by their terms not expressly made junior or senior to any Series A Shares, Series B Shares, Series C Shares, Series D Shares, Series E Shares or Series F Shares at the time outstanding as to dividends and as to the distribution of assets on any voluntary or involuntary liquidation of the corporation.

"Preference Shares" shall mean any class of shares of the corporation ranking prior to at least one other class of shares of the corporation as to the payment of dividends or the distribution of assets on any voluntary or involuntary liquidation of the corporation.

"Preferred Shares" shall mean the 10,000,000 shares of Preferred Stock referred to in the first paragraph of this Article THIRD.

"Senior Shares" shall mean Preference Shares of any series or class of the corporation which are by their terms expressly made senior to any Series A Shares, any Series B Shares, any Series C Shares, any Series D Shares, any Series E Shares or any Series F Shares at the time outstanding as to dividends and as to the distribution of assets on any voluntary or involuntary liquidation of the corporation.

"Special Securities" shall mean securities which can, at the option of the holder, be surrendered at face value in payment of any Federal estate tax or which provide tax benefits to the holder and are priced to reflect such tax benefits or which were originally issued at a deep or substantial discount.

"Ten Year Average Yield" shall mean the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of 10 years).

"Ten Year Constant Maturity Rate" shall mean, for each dividend period, the arithmetic average of the two most recent weekly per annum Ten Year Average Yields (or the one weekly per annum Ten Year Average Yield, if only one such yield shall be published during the relevant Calendar Period), as published weekly by the Federal Reserve Board during the Calendar Period immediately prior to the last ten calendar days of March, June, September or December, as the case may be, prior to the dividend period for which the dividend rate on the Series E Shares or Series F Shares is being determined. Notwithstanding the foregoing:

(i) if the Federal Reserve Board does not publish such a weekly per annum Ten Year Average Yield during any such Calendar Period, then the Ten Year Constant Maturity Rate for such dividend period shall mean the arithmetic average of the two most recent weekly per annum Ten Year Average Yields (or the one weekly per annum Ten Year Average Yield if only one such yield shall be published during the relevant Calendar Period), as published weekly during such Calendar Period by any Federal Reserve Bank or by any U.S. Government department or agency selected by the corporation;

(ii) if a per annum Ten Year Average Yield shall not be published by the Federal Reserve Board or by any Federal Reserve Bank or by any U.S. Government department or agency during such Calendar Period, then the Ten Year Constant Maturity Rate for such dividend period shall mean the arithmetic average of the two most recent weekly per annum average yields to maturity (or the one weekly average yield to maturity, if only one such yield shall be published during the relevant Calendar Period) for all of the actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) then having maturities of not less than 8 nor more than 12 years, as published during such Calendar Period by the Federal Reserve Board or, if the Federal Reserve Board shall not publish such yields, by any Federal Reserve Bank or by any U.S. Government department or agency selected by the corporation; and

(iii) if the corporation determines in good faith that for any reason the corporation cannot determine the Ten Year Constant Maturity Rate for any dividend period as provided above in this paragraph, then the Ten Year Constant Maturity Rate for such dividend period shall mean the arithmetic average of the per annum average yields to maturity based upon the closing bids during such Calendar Period for each of the issues of actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) with a final maturity date not less than 8 nor more than 12 years from the date of each such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations shall not be generally available) to the corporation by at least three recognized dealers in U.S. Government securities selected by the corporation.

In any event, the Ten Year Constant Maturity Rate shall be rounded to the nearest five hundredths of a percentage point.

"Treasury Bill Rate" shall mean, for each dividend period, the arithmetic average of the two most recent weekly per annum market discount rates (or the one weekly per annum market discount rate, if only one such rate shall be published during the relevant Calendar Period) for three-month U.S. Treasury bills, as published weekly by the Federal Reserve Board during the Calendar Period immediately prior to the last ten calendar days of March, June, September or December, as the case

may be, prior to the dividend period for which the dividend rate on the Series E Shares or Series F Shares is being determined. Notwithstanding the foregoing:

(i) if the Federal Reserve Board does not publish such a weekly per annum market discount rate during any such Calendar Period, then the Treasury Bill Rate for such dividend period shall mean the arithmetic average of the two most recent weekly per annum market discount rates (or the one weekly per annum market discount rate, if only one such rate shall be published during the relevant Calendar Period) for three-month U.S. Treasury bills, as published weekly during such Calendar Period by any Federal Reserve Bank or by any U.S. Government department or agency selected by the corporation;

(ii) if a per annum market discount rate for three-month U.S. Treasury bills shall not be published by the Federal Reserve Board or by any Federal Reserve Bank or by any U.S. Government department or agency during such Calendar Period, then the Treasury Bill Rate for such dividend period shall mean the arithmetic average of the two most recent weekly per annum market discount rates (or the one weekly per annum market discount rate, if only one such rate shall be published during the relevant Calendar Period) for all of the U.S. Treasury bills then having maturities of not less than 80 nor more than 100 days, as published during such Calendar Period by the Federal Reserve Board or, if the Federal Reserve Board shall not publish such rates, by any Federal Reserve Bank or by any U.S. Government department or agency selected by the corporation;

(iii) if the corporation determines in good faith that for any reason no such U.S. Treasury bill rates are published as provided above during such Calendar Period, then the Treasury Bill Rate for such dividend period shall mean the arithmetic average of the per annum market discount rates based upon the closing bids during such Calendar Period for each of the issues of marketable non-interest bearing U.S. Treasury securities with a maturity of not less than 80 nor more than 100 days from the date of each such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations shall not be generally available) to the corporation by at least three recognized dealers in U.S. Government securities selected by the corporation; and

(iv) if the corporation determines in good faith that for any reason the corporation cannot determine the Treasury Bill Rate for any dividend period as provided above in this paragraph, the Treasury Bill Rate for such dividend period shall mean the arithmetic average of the per annum market discount rates based upon the closing bids during such Calendar Period for each of the issues of marketable interest-bearing U.S. Treasury securities with a maturity of not less than 80 nor more than 100 days from the date of each such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations shall not be generally available) to the corporation by at least three recognized dealers in U.S. Government securities selected by the corporation.

In any event, the Treasury Bill Rate shall be rounded to the nearest five hundredths of a percentage point.

"*Twenty Year Average Yield*" shall mean the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of 20 years).

"*Twenty Year Constant Maturity Rate*" shall mean, for each dividend period, the arithmetic average of the two most recent weekly per annum *Twenty Year Average Yields* (or the one weekly per annum *Twenty Year Average Yield*, if only one such yield shall be published during the relevant Calendar Period), as published weekly by the Federal Reserve Board during the Calendar Period immediately prior to the last 10 calendar days of March, June, September or December, as the case may be, prior to the dividend period for which the dividend rate on the Series E Shares or Series F Shares is being determined. Notwithstanding the foregoing:

(i) if the Federal Reserve Board does not publish such a weekly per annum *Twenty Year Average Yield* during such Calendar Period, then the *Twenty Year Constant Maturity Rate* for such dividend period shall mean the arithmetic average of the two most recent weekly per annum *Twenty Year Average Yields* (or the one weekly per annum *Twenty Year Average Yield*, if only one such yield shall be published during the relevant Calendar Period), as published weekly during

such Calendar Period by any Federal Reserve Bank or by any U.S. Government department or agency selected by the corporation:

(ii) if a per annum Twenty Year Average Yield for such dividend period shall not be published by the Federal Reserve Board or by any Federal Reserve Bank or by any U.S. Government department or agency during such Calendar Period, then the Twenty Year Constant Maturity Rate for such dividend period shall mean the arithmetic average of the two most recent weekly per annum average yields to maturity (or the one weekly per annum average yield to maturity, if only one such yield shall be published during the relevant Calendar Period) for all of the actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) then having maturities of not less than 18 nor more than 22 years, as published during such Calendar Period by the Federal Reserve Board or, if the Federal Reserve Board shall not publish such yields, by any Federal Reserve Bank or by any U.S. Government department or agency selected by the corporation; and

(iii) if the corporation determines in good faith that for any reason the corporation cannot determine the Twenty Year Constant Maturity Rate for any dividend period as provided above in this paragraph, then the Twenty Year Constant Maturity Rate for such dividend period shall mean the arithmetic average of the per annum average yields to maturity based upon the closing bids during such Calendar Period for each of the issues of actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) with a final maturity date not less than 18 nor more than 22 years from the date of each such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations shall not be generally available) to the corporation by at least three recognized dealers in U.S. Government securities selected by the corporation.

In any event, the Twenty Year Constant Maturity Rate shall be rounded to the nearest five hundredths of a percentage point.

4. Pursuant to authority vested in the Board of Directors by the provisions of Article FOURTH of the Restated Certificate of Incorporation of the corporation, the amendments to such Restated Certificate of Incorporation set forth above were adopted by the affirmative vote of a majority of the Board of Directors of the Corporation at a meeting held on November 18, 1982.

IN WITNESS WHEREOF, we have made and signed this Certificate this 27th day of January, 1983 and affirm the statements contained herein as true under penalties of perjury.

Brian D. Fortow

Brian D. Fortow
Senior Vice President
and General Counsel

Victor Futer

Victor Futer
Vice President and
Secretary

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Assoc. 4/27/81

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1/27/83

CERTIFICATE OF AMENDMENT

OF THE

CERTIFICATE OF INCORPORATION

OF

ALLIED CORPORATION

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JAN 27 1983

AMT. OF CHECK \$	<i>185</i>
FILED FEE \$	<i>60</i>
TAX	
COUNTY FEE \$	
COPY \$	<i>113</i>
CERT \$	
REFUND \$	
SPEC HANDLE \$	<i>28</i>

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SKADDEN, ARPS, SLATE, MEAGHER & FLOM
919 THIRD AVENUE
NEW YORK, NEW YORK 10022-9931

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