

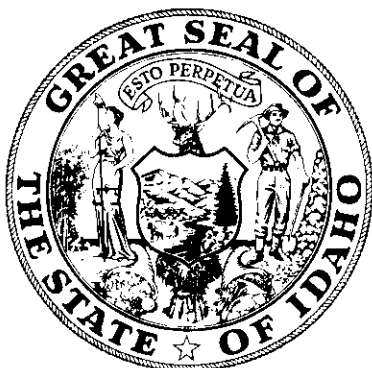
CERTIFICATE OF AUTHORITY
OF

AMAX INC.

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of an Application of AMAX INC.
_____ for a Certificate of Authority to transact business in this State, duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Authority to AMAX INC.
_____ to transact business in this State under the name AMAX INC.
_____ and attach hereto a duplicate original of the Application for such Certificate.

Dated July 15 _____, 19 80.



Pete T. Cenarrusa
SECRETARY OF STATE

Corporation Clerk

APPLICATION FOR CERTIFICATE OF AUTHORITY

To the Secretary of State of Idaho.

Pursuant to Section 30-1-110, **Idaho Code**, the undersigned Corporation hereby applies for a Certificate of Authority to transact business in your State, and for that purpose submits the following statement:

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1. The name of the corporation is AMAX INC.

SECRETARY OF
STATE

2. *The name which it shall use in Idaho is AMAX INC.

3. It is incorporated under the laws of New York

4. The date of its incorporation is June 17, 1887 and the period of its duration is perpetual

5. The address of its principal office in the state or country under the laws of which it is incorporated is 200 Park Avenue, New York, New York

6. The address of its proposed registered office in Idaho is 300 North 6th Street
Boise, Idaho 83701, and the name of its proposed

registered agent in Idaho at that address is C T CORPORATION SYSTEM

7. The purpose or purposes which it proposes to pursue in the transaction of business in Idaho are:

To conduct exploration activities in the State of

Idaho

8. The names and respective addresses of its directors and officers are:

Name	Office	Address
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- SEE ATTACHED RIDER -

9. The aggregate number of shares which it has authority to issue, itemized by classes, par value of shares, and shares without par value, is:

Number of Shares	Class	Par Value Per Share or Statement That Shares Are Without Par Value
<u>20,000,000</u>	<u>Preferred</u>	<u>\$1.00</u>
<u>150,000,000</u>	<u>Common</u>	<u>\$1.00</u>

(continued on reverse)

10. The aggregate number of its issued shares, itemized by classes, par value of shares, and shares without par value, is:

Number of Shares	Class	Par Value Per Share or Statement That Shares Are Without Par Value
759,347	Series B Convertible Preferred	\$1.00
1,500,000	Series C Preferred	\$1.00
2,000,000	Series D Preferred	\$1.00
60,789,159	Common	\$1.00

11. The corporation accepts and shall comply with the provisions of the Constitution and the laws of the State of Idaho.

12. This Application is accompanied by a copy of its articles of incorporation and amendments thereto, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated.

Dated June 18, 19 80

AMAX INC.

By David George Ball
David George Ball

Its Vice President

and Raymond J. Cooke
Its Assistant Secretary

STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

I, Barbara J. Sabato, a notary public, do hereby certify that on this 18th day of June, 19 80, personally appeared before me DAVID GEORGE BALL, who being by me first duly sworn, declared that he is the Vice President of AMAX INC.

that he signed the foregoing document as Vice President of the corporation and that the statements therein contained are true.

Barbara J. Sabato
Notary Public

BARBARA J. SABATO
NOTARY PUBLIC

*Pursuant to section 30-1-108(b)(1), Idaho Code, if the corporation assumes a name other than its true name, this application must be accompanied by a resolution of the Board of Directors to that effect.

My Commission Expires March 31, 1984

AMAX Inc.

OFFICERS

<u>OFFICER</u>	<u>OFFICE</u>	<u>BUSINESS ADDRESS</u>
Pierre Gousseland	*Chairman of the Board	AMAX Inc. AMAX Center Greenwich, Conn. 06830
John Towers	*President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
R. Bern Crowl	Vice President and Group Executive - Energy	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Chester O. Ensign, Jr.	Vice President and Group Executive - Base Metals	AMAX Inc. AMAX Center Greenwich, Conn. 06830
John W. Goth	Vice President and Group Executive - Molybdenum, Nickel, Tungsten & Specialty Metals	AMAX Molybdenum, Nickel Tungsten & Specialty Metals Division One Greenwich Plaza Greenwich, Conn. 06830
Elwin E. Smith	Vice President and Group Executive - Industrial Minerals and Resources	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Martin V. Alonzo	Senior Vice President - Controls and Administration	AMAX Inc. AMAX Center Greenwich, Conn. 06830
John F. Frawley	Senior Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Arthur Reef	Senior Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830

* Also Director of AMAX

<u>OFFICER</u>	<u>OFFICE</u>	<u>BUSINESS ADDRESS</u>
Horace W. Sawyer, Jr.	Senior Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Roger C. Sonnemann	Senior Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
David George Ball	Vice President and Secretary	AMAX Inc. AMAC Center Greenwich, Conn. 06830
R. Anthony Barker	Vice President	AMAX Exploration, Inc. 4704 Harlan Street Denver, Colorado 80212
Malcolm B. Bayliss	Vice President and General Counsel	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Lowry Blackburn	Vice President	AMAX Coal Company 105 South Meridian Indianapolis, Indiana 46225
Bruno C. Boik	Vice President	AMAX Engineering and Management Services Company Two Greenwich Plaza Greenwich, Conn. 06830
Allan K. Booth	Vice President	AMAX Lead & Zinc, Inc. Pierre Laclede Center 7733 Forsyth Boulevard Clayton, Missouri 63105
G. Robert Couch	Vice President	AMAX Specialty Metals Corporation 600 Lanidex Plaza Parsippany, New Jersey 07054
H. Stanley Dempsey	Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830

AMAX Inc. List of Officers

Continued

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<u>OFFICER</u>	<u>OFFICE</u>	<u>BUSINESS ADDRESS</u>
William F. Distler	Vice President	AMAX Inc. Climax Division 13949 West Colfax Avenue Golden, Colorado 80401
David K. Fagin	Vice President	Rosario Resources Corporation 375 Park Avenue New York, New York 10022
Everett C. Horne	Vice President	AMAX Chemical Corporation 35 Mason Street Greenwich, Conn. 06830
Herbert Kay	Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Edward S. Miller	Vice President and Treasurer	AMAX Inc. AMAX Center Greenwich, Conn. 06830
William J. Nolan, Jr.	Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Lloyd L. Parks	Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Alexander H. Schmidt-Fellner	Vice President	AMAX Petroleum Corporation 1300 West Belt Post Office Box 42806 Houston, Texas 77042
H. Michael Simeon	Vice President	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Vincent P. Blake	Controller	AMAX Inc. AMAX Center Greenwich, Conn. 06830

AMAX Inc.

BOARD OF DIRECTORS

<u>Directors</u>	<u>Business Address</u>
Aird, John B.	Aird & Berlis 15th Floor, York Centre 145 King Street, W. Toronto M5H 2J3, Ontario, Canada
Bonney, J. Dennis	Standard Oil Company of California 225 Bush Street San Francisco CA 94104
Coleman, William T., Jr.	O'Melveny & Myers Suite 500 S 1800 M Street, N.W. Washington, D.C. 20036
Cross, William R., Jr.	Langeloth Foundation 1 East 42nd Street New York, New York 10017
Du Cane, John P.	Selection Trust Limited Selection Trust Building Mason's Ave., Coleman St. London EC2V 5BU England
Fay, Perrin	Standard Oil Company of California 225 Bush Street San Francisco, CA 94104
Gousseland, Pierre	AMAX Inc. AMAX Center Greenwich, Conn. 06830
Hauge, Gabriel	Manufacturers Hanover Trust Company 350 Park Avenue New York, New York 10022
Hochschild, Walter	1270 Avenue of the Americas Room 2218 New York, New York 10020
Kane, Eneas D.	Standard Oil Company of California 225 Bush Street San Francisco CA 94104

Loeb, Carl M., Jr.

501 East 87th Street
New York, New York 10028

MacAvoy, Paul W.

Yale School of Organization
and Management
52 Hillhouse Avenue
New Haven, Conn. 06520

MacGregor, Ian

AMAX Inc.
AMAX Center
Greenwich, Conn. 06830

Reed, Gordon W.

AMAX Inc.
AMAX Center
Greenwich, Conn. 06830

Santry, Arthur J., Jr.

Combustion Engineering, Inc.
900 Long Ridge Road
Stamford, Conn. 06902

Towers, John

AMAX Inc.
AMAX Center
Greenwich, Conn. 06830

Wharton-Tigar, Edward C.

Selection Trust Limited
Selection Trust Building
Mason's Ave., Coleman St.
London EC2V 5BU England

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

29569

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.

Witness my hand and seal of the Department of State on

JUL 9 1980

Basil G. Paterson
Secretary of State

SECRETARY OF
STATE

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RESTATED CERTIFICATE OF INCORPORATION

OF

AMAX Inc.

under Section 807 of the Business Corporation Law.

We, the undersigned, Pierre Gousseland and David George Ball, the Chairman of the Board and the Secretary, respectively, of AMAX Inc., a New York corporation, do hereby certify as follows:

1. The name of the corporation is AMAX Inc.; and the name under which it was formed was The American Metal Company (Limited).

2. The Certificate of Incorporation was filed in the Department of State of the State of New York on June 17, 1887.

3. The text of the Certificate of Incorporation as amended heretofore is hereby restated without further amendment or changes to read in full as follows:

FIRST: The name of the corporation shall be AMAX Inc.

SECOND: The purposes of the corporation are as follows:

To engage in any commercial, mercantile, industrial, manufacturing, exploration, extraction, mining, refining, marine, agricultural, forestry, petroleum, research, licensing, servicing, agency, securities or brokerage business to the extent permitted by the Business Corporation Law of the State of New York, and any, some or all of the foregoing.

To acquire, hold, create interests in or dispose of real or personal property, tangible or intangible, of any kind in any manner.

THIRD: The aggregate number of shares which the Company shall have authority to issue is 20,000,000 shares of Preferred Stock of the par value of \$1 each, and 150,000,000 shares of Common Stock of the par value of \$1 each. The Board of Directors is authorized to restore any reacquired shares of Common Stock or of Preferred Stock to the status of authorized but unissued shares.

The rights, preferences and limitations of said classes of stock are as follows:

(1) (a) The Preferred Stock may be issued from time to time by the Board of Directors as shares of one or more series of Preferred Stock, and the Board of Directors is expressly authorized, prior to issuance, in the resolution or resolutions providing for the issue of shares of each particular series, to fix the following:

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

(ii) the annual dividend rate for such series, and the date from which dividends on all shares of such series issued prior to the record date for the first dividend shall be cumulative;

(iii) the redemption provisions and the redemption price or prices, if any, for such series, which may consist of a redemption price or scale of redemption

prices applicable only to redemption for a sinking fund (which term as used herein shall include any fund or requirement for the periodic purchase, redemption or retirement of shares), and a different redemption price or scale of redemption prices applicable to any other redemption;

(iv) the obligation, if any, of the Company to purchase or redeem shares of such series pursuant to a sinking fund;

(v) the terms, if any, upon which shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;

(vi) the amount or amounts which the shares of such series are entitled to receive upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, which, however, shall not exceed \$120 per share, plus in respect of each such share a sum computed at the annual dividend rate for such series from and after the date on which dividends on such shares become cumulative to and including the date fixed for such payment, less the aggregate of dividends theretofore paid thereon;

(vii) the voting rights, if any, in addition to those specified herein, and any other preferences, privileges and restrictions or qualifications of such series.

(b) All shares of Preferred Stock shall be of equal rank with each other, regardless of series, and shall be identical with each other in all respects except as provided in paragraph (a) of this subdivision (1); and the shares of the Preferred Stock of any one series shall be identical with each other in all respects except as to the dates from and after which dividends thereon shall be cumulative.

(c) In case the stated dividends and the amounts payable on liquidation are not paid in full, the shares of all series of Preferred Stock shall share ratably in the payment of dividends, including accumulations, if any, in accordance with the sums which would be payable on said shares if all dividends were declared and paid in full, and in any distribution of assets other than by way of dividends in accordance with the sums which would be payable on such distribution if all sums payable were discharged in full.

(2) The holders of Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors, but only out of surplus legally available for the payment of dividends, cumulative cash dividends at the annual rate for each particular series theretofore fixed by the Board of Directors as hereinbefore provided, and no more, payable quarter-yearly, on the first days of March, June, September and December in each year, to stockholders of record on the respective dates, not exceeding fifty days preceding such dividend payment dates, fixed for the purpose by the Board of Directors in advance of payment of each particular dividend. Dividends on the Preferred Stock shall be payable before any dividends on any junior stock (which shall mean the Common Stock and any other class of stock of the Company hereafter authorized over which the Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any dissolution, liquidation or winding up of the Company) shall be paid or set apart for payment, and shall be cumulative from and after dates determined, as follows:

(a) if issued prior to the record date for the first dividend on shares of such series, then from the date theretofore fixed by the Board of Directors as hereinabove provided;

(b) if issued during the period commencing immediately after a record date for a dividend on such series and ending on the payment date for such dividend, then from and after such dividend payment date; and

(c) otherwise from and after the first day of March, June, September or December next preceding the date of issue of such shares.

(3) So long as any of the Preferred Stock remains outstanding, no dividend whatever shall be paid or declared, and no distribution made, on any junior stock, other than a dividend payable in junior stock, nor shall any shares of junior stock be acquired for a consideration by the Company or by any subsidiary unless (i) all dividends on the Preferred Stock of all series accrued for all past quarter-yearly dividend periods shall have been paid and the full dividends thereon for the then current quarter-yearly dividend period shall have been paid or declared and (ii) all prior sinking fund requirements with respect to all series of the Preferred Stock shall have been complied with. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors may be declared and paid on any junior stock from time to time out of the remaining surplus of the Company legally available therefor, and the Preferred Stock shall not be entitled to participate in any such dividends, whether payable in cash, stock or otherwise.

(4) Subject to the provisions herein with respect to the Preferred Stock, the Board of Directors shall have power from time to time to fix, determine and vary the amount of working capital of the Company and to direct and determine the use and disposition of any surplus of the Company over and above the capital of the Company, and to use the surplus of the Company for the purpose of acquiring any of the capital stock of the Company, and to redeem and sell any of the capital stock so acquired.

(5) Subject to the provisions of subdivision (6) hereof, the Company at the option of the Board of Directors (or for the purpose of any sinking fund) may (except as otherwise provided by the Board of Directors in accordance with paragraph (a) of subdivision (1) in respect of any series of the Preferred Stock) redeem the whole or any part of the Preferred Stock at any time outstanding or the whole or any part of any series thereof, at any time or from time to time, upon notice duly given as hereinafter specified, at the applicable redemption price or prices fixed herein or by the Board of Directors as hereinbefore provided, together with a sum, in the case of each share so to be redeemed, computed at the annual dividend rate for the series of which the particular share is a part, from and after the date on which dividends on such share became cumulative to and including the date fixed for such redemption, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest.

Notice of every such redemption of the Preferred Stock shall be given by publication at least once in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, such publication to be at least thirty days prior to the date fixed for such redemption. Notice of every such redemption shall also be mailed at least thirty days prior to the date fixed for such redemption to the holders of record of the shares so to be redeemed at their respective addresses as the same shall appear on the books of the Company; but no failure to mail such notice nor any defect therein or in the mailing thereof shall affect the validity of the proceeding for the redemption of any shares so to be redeemed.

In case of redemption of a part only of any series of the Preferred Stock at the time outstanding, whether for sinking fund purposes or otherwise, the redemption may be either pro rata or by lot. The Board of Directors shall have full power and authority to prescribe the manner in which the drawings by lot or the pro rata redemption shall be conducted and,

subject to the provisions herein contained, the terms and conditions upon which the Preferred Stock shall be redeemed from time to time.

If such notice of redemption shall have been duly given by publication, and if, on or before the redemption date specified therein, all funds necessary for such redemption shall have been set aside by the Company, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, so as to be and continue to be available therefor, then, notwithstanding that any certificate for shares so called for redemption shall not have been surrendered for cancellation, all shares so called for redemption shall no longer be deemed outstanding on and after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on redemption thereof, without interest.

If such notice of redemption shall have been duly given by publication or if the Company shall have given to the bank or trust company hereinafter referred to irrevocable authorization promptly to give or complete such notice by publication, and if on or before the redemption date specified therein the funds necessary for such redemption shall have been deposited by the Company with a bank or trust company in good standing, designated in such notice, organized under the laws of the United States of America or of the State of New York, doing business in the Borough of Manhattan, the City of New York, having a capital, surplus and undivided profits aggregating at least \$5,000,000 according to its last published statement of condition, in trust for the pro rata benefit of the holders of the shares so called for redemption, then, notwithstanding that any certificate for shares so called for redemption shall not have been surrendered for cancellation from and after the time of such deposit, all shares of the Preferred Stock so called for redemption shall no longer be deemed to be outstanding and all rights with respect to such shares shall forthwith cease and terminate, except only the right of the holders thereof to receive from such bank or trust company at any time after the time of such deposit the funds so deposited, without interest, and the right to exercise on or before the date fixed for redemption, privileges of exchange or conversion, if any, not theretofore existing. Any interest accrued on such funds shall be paid to the Company from time to time.

Any funds so set aside or deposited by the Company which shall not be required for such redemption because of the exercise of any right of conversion or exchange subsequent to the date of such deposit shall be released or repaid to the Company forthwith. Any funds so set aside or deposited, as the case may be, and unclaimed at the end of six years from such redemption date shall be released or repaid to the Company, after which the holders of the shares so called for redemption shall look only to the Company for payment thereof.

(6) If at any time the Company shall fail to pay dividends in full on the Preferred Stock, thereafter and until all accrued dividends shall have been paid or declared and funds set aside for their payment, the Company shall not redeem (for sinking fund or otherwise) less than all of the Preferred Stock at the time outstanding, and neither the Company nor any subsidiary shall purchase (for sinking fund or otherwise) less than all of the Preferred Stock unless such purchase shall be pursuant to tenders called for on at least twenty days previous notice by mail to the holders of record of the Preferred Stock at their respective addresses as the same shall appear on the books of the Company, and the shares so purchased shall be those tendered at the lowest prices, pursuant to such call for tenders.

(7) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, the holders of the Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, the amount or amounts theretofore fixed for each particular series by the Board of Directors. If such payment shall have been made in full to the

holders of the Preferred Stock on voluntary or involuntary liquidation, dissolution or winding up, the remaining assets of the Company shall be distributed among the holders of any junior stock in accordance with the applicable provisions of the Certificate of Incorporation, but pro rata within a class according to their respective holdings of shares of such class of junior stock. For the purposes of this subdivision (7), a consolidation or merger of the Company with any other corporation shall not be deemed to constitute a liquidation, dissolution or winding up of the Company.

(8) Except as otherwise provided in this subdivision (8) and as otherwise provided by the Board of Directors in accordance with paragraph (a) of subdivision (1) in respect of any series of the Preferred Stock, all voting rights in the Company shall be vested exclusively in the holders of the Common Stock, who shall be entitled to one vote for each share of Common Stock.

In the event that four quarterly dividends (whether or not consecutive) payable on the Preferred Stock of any series shall be in default, in whole or in part, the holders of the outstanding Preferred Stock, in addition to any right of holders of any series of Preferred Stock to vote with the Common Stock at the election of other directors, shall be entitled at the next annual meeting of shareholders, voting separately as a class regardless of series, each share of Preferred Stock having one vote, to elect one director of the class of directors then being elected, and, in the event such default continues to exist at succeeding annual meetings, the holders of the outstanding Preferred Stock shall be entitled in like manner to elect one director of the class of directors being elected at such meetings; the Preferred Stock thus, in the event of such default, being entitled as a class to elect a maximum of three directors, each to hold office for a term of three years or until his successor is elected and qualified; provided, however, that each person elected a director by the holders of Preferred Stock shall, as a condition to his qualification as a director of the Company, submit to the Board of Directors his written resignation effective if and when all dividends in default on the Preferred Stock shall be paid in full. If, after any such default in the payment of dividends on Preferred Stock, all such dividends in default shall be paid in full, the Preferred Stock shall then be divested of its right as a class to elect directors, subject to the re-vesting of same in the event of any similar future default or defaults. Upon the payment in full of all dividends then in default on the Preferred Stock, the directors of the Company, exclusive of those elected by the Preferred Stock, may by a majority vote accept the aforesaid resignations of the directors so elected by the Preferred Stock, and thereupon elect in the place and stead of such directors new directors to fulfill the unexpired terms of such resigning directors.

If at any time, when the holders of Preferred Stock as a class are represented by only one director on the Board of Directors, and for any reason other than acceptance of the aforesaid resignation of such director, the office of such director becomes vacant, the remaining directors shall not be entitled to elect a successor, but instead, such vacancy shall be filled at the next annual meeting of shareholders by the holders of Preferred Stock, voting separately as a class. If, after the holders of Preferred Stock as a class are represented by more than one director on the Board of Directors, any vacancy occurs among the directors elected by the holders of Preferred Stock, other than as a result of acceptance of the aforesaid resignations, the remaining director or directors so elected by the Preferred Stock shall be entitled to nominate for election by the Board of Directors a successor-director to hold office for the unexpired term of the director whose position has become vacant. If the vacancy is not so filled prior to the next succeeding annual meeting of shareholders, it may be filled at such meeting by the holders of Preferred Stock, voting separately as a class.

(9) No holder of Common Stock or of Preferred Stock shall be entitled as a matter of right to subscribe for or purchase any part of any new or additional issue of stock of any class whatsoever, or of securities convertible into any stock of any class whatsoever, whether now

or hereafter authorized and whether issued for cash or other consideration or by way of dividend.

There was established by a Certificate of Amendment of the Certificate of Incorporation filed in the Department of State of the State of New York on February 25, 1976, a series of Preferred Stock which consisted initially of 2,000,000 shares, and consists, as of the date of this Restated Certificate of Incorporation, of 788,737 shares, which number of shares may be increased or decreased from time to time by the Board of Directors, and such series shall have the designations, preferences, privileges and voting powers, and restrictions and qualifications which are set forth in the Certificate of Incorporation, and in addition the following:

(i) The distinctive serial designation of this series of Preferred Stock is Series B Convertible Preferred Stock.

(ii) The annual dividend rate for the Series B Convertible Preferred Stock is \$5.00 per share, and the date from and after which dividends on any shares of Series B Convertible Preferred Stock issued prior to the record date for the first dividend on shares of such series shall be cumulative is the date of issuance of such shares.

(iii) The Company may, at the option of the Board of Directors, at any time on or after March 1, 1978, but not prior thereto, redeem the whole or any part of the then outstanding Series B Convertible Preferred Stock, at the following prices per share if redeemed during the twelve-month period beginning March 1 of the year indicated:

1978	\$53.000	1982	\$51.500
1979	\$52.625	1983	\$51.125
1980	\$52.250	1984	\$50.750
1981	\$51.875	1985	\$50.375

and \$50.00 per share if redeemed at any time thereafter; together in each case with a sum, for each share so to be redeemed, computed at the rate of \$5.00 per annum from and after the date on which dividends on such share became cumulative to and including such date fixed for redemption, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest.

(iv)(a) Subject to the provisions for adjustment hereinafter set forth, each share of Series B Convertible Preferred Stock shall be convertible at the option of the holder thereof, upon surrender to any Transfer Agent for such Series B Convertible Preferred Stock or to the Company if no such Transfer Agent exists, of the certificate for the share so to be converted, into 0.87336 of a fully paid and nonassessable share of Common Stock of the Company. The right to convert shares of Series B Convertible Preferred Stock called for redemption shall terminate at the close of the third full business day prior to the date fixed for redemption. Upon conversion of any shares of Series B Convertible Preferred Stock, no allowance or adjustment shall be made for dividends on either class of stock.

(b) The number of shares of Common Stock and the number of shares of other stock of the Company, if any, into which each share of Series B Con-

Convertible Preferred Stock is convertible, shall be subject to adjustment from time to time as follows:

(A) In case the Company shall (a) pay a dividend on its Common Stock in stock of the Company, (b) subdivide its outstanding shares of Common Stock, (c) combine the outstanding shares of its Common Stock into a smaller number of shares, or (d) issue by reclassification of its Common Stock (whether pursuant to a merger or consolidation or otherwise) any shares of stock of the Company, then the holder of each share of Series B Convertible Preferred Stock shall be entitled to receive upon the conversion of such share, the number of shares of stock of the Company which he would have owned or have been entitled to receive after the happening of any of the events described above had such share been converted immediately prior to the happening of such event. Such adjustment shall be made whenever any of the events listed above shall occur. An adjustment made pursuant to this subdivision (A) shall become effective retroactively with respect to conversions made subsequent to the record date in the case of a dividend, and shall become effective on the effective date in the case of a subdivision, combination or reclassification;

(B) In case the Company shall issue rights or warrants to the holders of its Common Stock as such entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share of the Common Stock (as defined in subparagraph (iv) (c) below) on the record date for determination of stockholders entitled to receive such rights or warrants, then in each such case the number of shares of Common Stock into which each share of Series B Convertible Preferred Stock shall thereafter be convertible shall be determined by multiplying the number of shares of Common Stock into which such share of Series B Convertible Preferred Stock was theretofore convertible by a fraction, of which the numerator shall be the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants plus the number of additional shares of Common Stock offered for subscription or purchase, and of which the denominator shall be the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants plus the number of shares which the aggregate offering price of the total number of shares so offered would purchase at such current market price. For the purposes of this subdivision (B), the issuance of rights or warrants to subscribe for or purchase stock or securities convertible into shares of Common Stock shall be deemed to be the issuance of rights or warrants to purchase the shares of Common Stock into which such stock or securities are convertible at an aggregate offering price equal to the aggregate offering price of such stock or securities plus the minimum aggregate amount (if any) payable upon conversion of such stock or securities into Common Stock. Such adjustment shall be made whenever any such rights or warrants are issued, and shall become effective retroactively with respect to conversions made subsequent to the record date for the determination of stockholders entitled to receive such rights or warrants; and

(C) In case the Company shall distribute to holders of its Common Stock (whether pursuant to a merger or consolidation or otherwise) evidences of its indebtedness or assets (excluding cash distributions after March 1, 1976

not exceeding (a) the aggregate net earnings of the Company and its subsidiaries on a consolidated basis after such date less (b) dividends paid after such date on stock other than Common Stock, all determined in accordance with sound accounting principles) or rights to subscribe (excluding those referred to in subdivision (B) above), then in such case the number of shares of Common Stock into which each share of Series B Convertible Preferred Stock shall thereafter be convertible shall be determined by multiplying the number of shares of Common Stock into which such shares of Series B Convertible Preferred Stock was then convertible by a fraction of which the numerator shall be the current market price per share of the Common Stock (as defined in subparagraph (iv) (c) below) on the record date for determination of stockholders entitled to receive such distribution, and of which the denominator shall be such current market price per share of the Common Stock less its fair value (as determined by the Board of Directors of the Company, whose determination shall be conclusive, and described in a statement filed with each Transfer Agent) of the portion of the assets or evidences of indebtedness so distributed or of such subscription rights applicable to one share of the Common Stock. Such adjustment shall be made whenever any such distribution is made, and shall become effective retroactively with respect to conversions made subsequent to the record date for the determination of stockholders entitled to receive such distribution.

(c) For the purposes of any computation under subparagraph (iv) (b) above, the current market price per share of Common Stock on any date shall be deemed to be the average of the daily closing prices for the 30 consecutive full business days commencing 45 full business days before the day in question. The closing price for each day shall be the last sales price regular way or, in case no sale takes place on such day, the average of the closing bid and asked prices regular way, in either case (i) as officially quoted by the New York Stock Exchange, or (ii) if, in the judgment of the Board of Directors of the Company, the New York Stock Exchange is no longer the principal United States market for the Common Stock, then as quoted on the principal United States stock exchange or market for the Common Stock, as determined by the Board of Directors of the Company, or (iii) if, in the judgment of the Board of Directors of the Company, there exists no principal United States stock exchange or market for the Common Stock, then as determined by the Board of Directors of the Company.

(d) No adjustment in the conversion rate shall be required unless such adjustment (plus any adjustments not previously made by reason of this subparagraph (d)) would require an increase or decrease of at least 1% in the number of shares of Common Stock into which each share of Series B Convertible Preferred Stock is then convertible; provided, however, that any adjustment which by reason of this subparagraph (d) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this subparagraph (iv) shall be made to the nearest one-hundred thousandth of a share.

(e) Whenever any adjustment is required in the stock into which each share of Series B Convertible Preferred Stock is convertible, the Company shall forthwith (i) file with each Transfer Agent of such Series B Convertible Preferred Stock a statement describing in reasonable detail the adjustment and the method of calculation used, and (ii) cause a copy of such statement to be mailed to the

holders of record of the Series B Convertible Preferred Stock as of the first date of such adjustment.

(f) The Company shall at all times reserve and keep available out of its authorized Common Stock the full number of shares of stock into which all shares of Series B Convertible Preferred Stock from time to time outstanding are convertible. If at any time the number of authorized and unissued shares of Common Stock shall not be sufficient to effect the conversion of all outstanding shares of Series B Convertible Preferred Stock at the conversion rate then in effect, the Company shall take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized and unissued shares of Common Stock to such number as shall be sufficient for such purpose.

(g) No fractional shares or scrip representing fractional shares shall be issued upon the conversion of Series B Convertible Preferred Stock. If any such conversion would otherwise require the issuance of a fractional share, an amount equal to such fraction multiplied by the closing price (determined as provided in subparagraph (iv) (c) above) of the Common Stock on the day of conversion shall be paid to the holder in cash by the Company.

(h) The certificate of any independent firm of public accountants of recognized standing selected by the Board of Directors shall be evidence of the correctness of any computation made under this subparagraph (iv).

(i) All shares of Series B Convertible Preferred Stock redeemed, purchased or otherwise acquired by the Company or surrendered to it for conversion into Common Stock as provided above shall be cancelled and thereupon restored to the status of authorized but unissued shares of Preferred Stock undesignated as to series.

(j) The Company shall be entitled to make such increases in the conversion rate, in addition to those required by this Section, as shall be determined by the Board of Directors, as evidenced by a board resolution, to be advisable in order to avoid taxation so far as practicable of any dividend of stock or stock rights or any event treated as such for federal income tax purposes to the recipients.

(v) In the event of any voluntary liquidation, dissolution or winding up of the Company the holders of the Series B Convertible Preferred Stock then outstanding shall be entitled to receive the amount per share which such holders would have been entitled to receive had such shares been redeemed on the date fixed for payment, or if redemption on such date is not provided for, an amount equal to the maximum price at which such shares are thereafter redeemable, plus in respect of each such share a sum computed at the rate of \$3.00 per annum from and after the date on which dividends on such share became cumulative to and including the date fixed for such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest. In the event of any involuntary liquidation, dissolution or winding up of the Company, the holders of the Series B Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, an amount equal to \$50 per share, plus in respect of each such share a sum computed at the rate of \$3.00 per annum from and after the date on which dividends on such share became cumulative to and including the date fixed for such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest.

(vi) (a) Except as otherwise expressly required by law, the Series B Convertible Preferred Stock shall have no voting rights except as set forth in Section 8 of Article THIRD of the Certificate of Incorporation and in subparagraphs (b) and (c) below.

(b) So long as any shares of the Series B Convertible Preferred Stock are outstanding, the consent of the holders of at least a majority of the then outstanding shares of the Preferred Stock given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) Any increase in the authorized amount of the Preferred Stock, or the authorization, or any increase in the authorized amount, of any class of stock ranking on a parity with the Preferred Stock.

(ii) The sale, lease or conveyance (other than by mortgage) of all or substantially all of the property or business of the Company; or the consolidation or merger of the Company into any other corporation, unless the corporation resulting from such merger or consolidation shall have thereafter no class of stock, either authorized or outstanding, ranking prior to or on a parity with shares corresponding to the Preferred Stock, except the same number of shares with no greater rights and preferences than the shares of Preferred Stock authorized immediately preceding such consolidation or merger, and unless each holder of Preferred Stock immediately preceding such consolidation or merger shall receive the same number of shares, with substantially the same rights and preferences, of the resulting corporation, provided, however, that the resulting corporation may have authorized and outstanding such additional shares of stock having preferences or priorities over or being on a parity with the Preferred Stock as the holders of Preferred Stock of the Company may have previously authorized pursuant to the Certificate of Incorporation; and provided, further, that this requirement of consent by the holders of Preferred Stock shall not be deemed to apply to or operate to prevent either the purchase by the Company of the assets or stock, in whole or in part, of any other corporation, or the sale by the Company or any subsidiary of all or part of the capital stock or assets of other corporations, including a subsidiary, or the sale of a division or divisions of the Company or of any subsidiary, or any other sale of property or assets which constitutes less than substantially all of the property or assets of the Company.

No vote of the Preferred Stock shall be required under this subparagraph (vi) (b), if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, provision is to be made in accordance with the fifth paragraph of subdivision (5) of Article THIRD of the Certificate of Incorporation for the redemption of all shares of the Preferred Stock at the time outstanding.

(c) So long as any shares of the Series B Convertible Preferred Stock are outstanding, the consent of the holders of at least two-thirds of the then outstanding shares of the Preferred Stock, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) The authorization or any increase in the authorized amount of any class of stock ranking prior to the Preferred Stock.

(iii) The amendment, alteration or repeal of any of the provisions of the Certificate of Incorporation which would affect adversely any right, preference, privilege or voting power of the Preferred Stock or of the holders thereof; provided, however, that if any such amendment, alteration or repeal would affect adversely any right, preference, privilege or voting power of the Series B Convertible Preferred Stock which is not enjoyed by the Preferred Stock as a class, the consent of the holders of at least two-thirds of the outstanding shares of such series, similarly given, shall be required in lieu of the consent of the holders of two-thirds of the shares of the Preferred Stock as a class.

No vote of the Preferred Stock shall be required under this subparagraph (vi) (c) if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, provision is to be made in accordance with the fifth paragraph of subdivision (5) of Article THIRD of the Certificate of Incorporation for the redemption of all shares of Preferred Stock at the time outstanding.

There was established by a Certificate of Amendment of the Certificate of Incorporation filed in the Department of State of the State of New York on June 15, 1977, a series of Preferred Stock which consisted initially of 1,000,000 shares, was increased to 1,500,000 shares by an Amendment to a Certificate of Amendment of the Certificate of Incorporation filed in the Department of State of the State of New York on November 22, 1977 and consists, as of the date of this Restated Certificate of Incorporation, of 1,500,000 shares, which number of shares may be increased or decreased from time to time by the Board of Directors, and such series shall have the designations, preferences, privileges and voting powers, and restrictions and qualifications which are set forth in the Certificate of Incorporation, and in addition the following:

(i) The distinctive serial designation of this series of Preferred Stock is "Series C Preferred Stock".

(ii) The annual dividend rate for the Series C Preferred Stock is \$7.375 per share, payable quarter-yearly as provided in subdivision (2) of Article THIRD of the Certificate of Incorporation, and the date from and after which dividends on any shares of Series C Preferred Stock issued prior to the record date for the first dividend on shares of such series shall be cumulative is the date of issuance of such shares.

(iii) The Company may, at the option of the Board of Directors, at any time on or after June 1, 1980, but not prior thereto, redeem the whole or any part of the then outstanding Series C Preferred Stock, at \$102 per share if redeemed during the twelve-month period beginning on June 1, 1980, at \$101 per share if redeemed during the twelve-month period beginning on June 1, 1981 and at \$100 per share if redeemed at any time thereafter; together in each case with a sum, for each share so to be redeemed, computed at the rate of \$7.375 per annum from and after the date of issuance of such share to and including the date fixed for redemption in a notice of redemption given in accordance with subdivision (5) of Article THIRD of the Certificate of Incorporation, less the aggregate of the dividends therefor and on such redemption date paid thereon, but computed without interest. All redemptions pursuant to this paragraph (iii) shall be pro rata, as nearly as may be, among the holders of the Series C Preferred Stock according to the number of shares held by each holder.

(iv) Shares of the Series C Preferred Stock shall be entitled to the benefits of a sinking fund as follows:

(a) So long as any shares of the Series C Preferred Stock remain outstanding, the Company shall, as a sinking fund for the retirement of shares of Series C Preferred Stock, redeem, out of funds legally available therefor, one-third of the shares of Series C Preferred Stock then outstanding on June 1, 1983, one-half of such shares then outstanding on June 1, 1984 and all shares, if any, then outstanding on June 1, 1985, in each case at \$100 per share; together in each case with a sum, for each share so to be redeemed, computed at the rate of \$7.375 per annum from and after the date of issuance of such share to and including the date fixed for redemption in a notice of redemption given in accordance with subdivision (5) of Article Third of the Certificate of Incorporation, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest.

(b) All redemptions pursuant to this paragraph (iv) shall be pro rata, as nearly as may be, among the holders of the Series C Preferred Stock according to the number of shares held by each holder. No shares of Series C Preferred Stock redeemed at the option of the Company pursuant to paragraph (iii) hereof or otherwise purchased or acquired by the Company may be credited to, or relieve the Company to any extent from, the sinking fund obligation of the Company set forth in subparagraph (iv)(a) hereof.

(c) All shares of the Series C Preferred Stock redeemed, purchased or otherwise acquired and retired by the Company shall be cancelled, shall not be reissued as shares of the Series C Preferred Stock and shall constitute authorized and unissued shares of the Preferred Stock.

(d) So long as any shares of the Series C Preferred Stock shall remain outstanding, in no event shall any dividends, whether in cash, stock or otherwise, be paid or declared, or any distribution be made on any stock of the Company ranking junior to the Series C Preferred Stock, nor shall any shares of such stock ranking junior to the Series C Preferred Stock be purchased, redeemed, retired or otherwise acquired for a valuable consideration by the Company unless the Company shall have redeemed, pursuant to subparagraph (iv)(a) hereof the number of shares of Series C Preferred Stock required to have been theretofore redeemed pursuant to said subparagraph (iv)(a) (without reference to any provision of said subparagraph (iv)(a) which limits the Company's obligation to make such redemption), but a deficiency in the sinking fund requirements shall have no other consequence except as provided in subparagraph (iv)(e) hereof.

(e) In the event that, at a time when the holders of Preferred Stock do not have the right to elect a director pursuant to the second paragraph of subdivision (8) of Article Third of the Certificate of Incorporation, the Company shall have failed to have redeemed when required (without regard to the availability of funds legally available therefor) shares of Series C Preferred Stock or shares of any other series of Preferred Stock having a similar right to elect a director by reason of a failure of the Company to redeem shares of such Preferred Stock pursuant to a mandatory sinking fund provision (such other Preferred Stock together with the Series C Preferred Stock being hereinafter referred to as Sinking Fund Preferred Stock), the holders of the then outstanding Sinking Fund Preferred Stock, in addition to any right of holders of any series of Sinking Fund Preferred Stock to vote with the Common Stock at the election of other directors, shall be entitled to elect a single director of the Company, such director to be elected by such holders at the next annual meeting of shareholders, voting separately from all other classes and series of capital stock of the Company, each share of Sinking Fund Preferred Stock having one vote, as a director of the class of directors then being elected, to hold office for a term of three years or until his successor is elected and qualified; provided, however, that the person so elected a director shall, as a condition to his qualification as a director of the Company, submit to the Board of Directors his written resignation effective if and when the earlier of the following occurs: (a) the Company has redeemed the shares

of Sinking Fund Preferred Stock which the Company is required by its terms thereof theretofore to have redeemed or (b) the holders of Preferred Stock elect a director pursuant to the second paragraph of subdivision (8) of Article Third of the Certificate of Incorporation. If either of the foregoing occurs, the Sinking Fund Preferred Stock shall then be divested of the right to elect a director pursuant to this subparagraph (iv) (c), subject to the revesting of same in the event of any similar future failure by the Company to meet redemption obligations, and the directors of the Company, exclusive of such director elected pursuant to this subparagraph (iv) (c), may by a majority vote accept the aforesaid resignation of such director and thereupon elect in the place and stead of such director a new director to fulfill the unexpired term of such resigning director. If, for any reason other than acceptance of the aforesaid resignation of such director, the office of such director becomes vacant, the remaining directors shall not be entitled to elect a successor, but instead, such vacancy shall be filled by the holders of the Sinking Fund Preferred Stock then outstanding by written approval of such successor by the holders of a majority of the then outstanding shares of Sinking Fund Preferred Stock or by vote of the holders of the then outstanding shares of Sinking Fund Preferred Stock, voting as aforesaid, at the next annual meeting of shareholders or at a special meeting of such holders called for such purpose. The Company shall promptly call such a special meeting for such purpose at the request of any holder or holders of at least 5% of the then outstanding shares of Sinking Fund Preferred Stock.

(v) In the event of any voluntary liquidation, dissolution or winding up of the Company the holders of the Series C Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, the amount per share which such holders would have been entitled to receive had such shares been redeemed pursuant to paragraph (iii) hereof on the date fixed for payment, or, if redemption on such date is not provided for, an amount equal to the maximum price at which such shares are thereafter redeemable pursuant to paragraph (iii) hereof, plus in respect of each such share a sum computed at the rate of \$7.375 per annum from and after the date of issuance of such share to and including the date of such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest. In the event of any involuntary liquidation, dissolution or winding up of the Company, the holders of the Series C Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, an amount equal to \$100 per share, plus in respect of each such share a sum computed at the rate of \$7.375 per annum from and after the date of issuance of such share to and including the date of such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest.

(vi) (a) The holders of the Series C Preferred Stock shall be entitled to one vote for each share on all matters submitted to the stockholders of the Company.

(b) So long as any shares of the Series C Preferred Stock are outstanding, the consent of the holders of at least a majority of the then outstanding shares of the Preferred Stock given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) Any increase in the authorized amount of the Preferred Stock, or the authorization, or any increase in the authorized amount, of any class of stock ranking on a parity with the Preferred Stock.

(ii) The sale, lease or conveyance (other than by mortgage) of all or substantially all of the property or business of the Company; or the consolidation or merger of the Company into any other corporation, unless the corporation

resulting from such merger or consolidation shall have thereafter no class of stock, either authorized or outstanding, ranking prior to or on a parity with shares corresponding to the Preferred Stock, except the same number of shares with no greater rights and preferences than the shares of Preferred Stock authorized immediately preceding such consolidation or merger, and unless each holder of Preferred Stock immediately preceding such consolidation or merger shall receive the same number of shares, with substantially the same rights and preferences, of the resulting corporation, provided, however, that the resulting corporation may have authorized and outstanding such additional shares of stock having preferences or priorities over or being on a parity with the Preferred Stock as the holders of Preferred Stock of the Company may have previously authorized pursuant to the Certificate of Incorporation; and provided, further, that this requirement of consent by the holders of Preferred Stock shall not be deemed to apply to or operate to prevent either the purchase by the Company of the assets or stock, in whole or in part, of any other corporation, or the sale by the Company or any subsidiary of all or part of the capital stock or assets of other corporations, including a subsidiary, or the sale of a division or divisions of the Company or of any subsidiary, or any other sale of property or assets which constitutes less than substantially all of the property or assets of the Company.

No vote of the Preferred Stock shall be required under this subparagraph (vi) (b), if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, sufficient funds have been deposited in trust in accordance with the fifth paragraph of subdivision (5) of Article THIRD of the Certificate of Incorporation for the redemption of all shares of the Preferred Stock at the time outstanding.

(c) So long as any shares of the Series C Preferred Stock are outstanding, the consent of the holders of at least two-thirds of the then outstanding shares of the Preferred Stock, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) The authorization or any increase in the authorized amount of any class of stock ranking prior to the Preferred Stock.

(ii) The amendment, alteration or repeal of any of the provisions of the Certificate of Incorporation which would affect adversely any right, preference, privilege or voting power of the Preferred Stock or of the holders thereof (including, but not limited to, any alteration or change in the annual dividend rates on the Preferred Stock, the cumulative or preferential nature of the annual dividend rates on the Preferred Stock or the date from which such dividends are cumulative or any alteration or change in the quarterly dividend payment dates with respect to the Preferred Stock); provided, however, that if any such amendment, alteration or repeal would affect adversely any right, preference, privilege or voting power of the Series C Preferred Stock which is not enjoyed by the Preferred Stock as a class, the consent of the holders of at least two-thirds of the outstanding shares of such series, similarly given, shall be required in lieu of the consent of the holders of two-thirds of the shares of the Preferred Stock as a class.

No vote of the Preferred Stock shall be required under this subparagraph (vi)(c) if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, sufficient funds have been deposited in trust in accordance with the fifth paragraph of subdivision (5) of Article THIRD of the Certificate of Incorporation for the redemption of all shares of Preferred Stock at the time outstanding.

There was established by a Certificate of Amendment of the Certificate of Incorporation filed in the Department of State of the State of New York on September 11, 1978, a series of Preferred Stock, consisting initially and as of the date of this Restated Certificate of Incorporation of 2,000,000 shares, which number of shares may be increased or decreased from time to time by the Board of Directors, and such series shall have the designations, preferences, privileges and voting powers, and restrictions and qualifications which are set forth in the Certificate of Incorporation, and in addition the following:

(i) The distinctive serial designation of this series of Preferred Stock is "Series D Preferred Stock".

(ii) (a) The annual dividend rate for the Series D Preferred Stock is \$5.00 per share, subject to reduction in respect of each quarter-yearly dividend period in the manner provided hereafter in this paragraph (ii), payable quarter-yearly as provided in subdivision (2) of Article THIRD of the Certificate of Incorporation, and the date from and after which dividends on any shares of Series D Preferred Stock issued prior to the record date for the first dividend on shares of such series shall be cumulative is the date of issuance of such shares.

(b) If the annual dividend rate in respect of any quarter-yearly dividend period (including the period ending December 1, 1978) would be less than \$5.00 per share if determined in the following manner, such lower annual dividend rate shall be applicable to such quarter-yearly dividend period and dividends shall accrue at such rate during such period on a day to day basis, calculated on the basis of a 365 or 366 day year, as the case may be, for the actual number of days elapsed. Such alternate annual dividend rate shall be \$3.1391 per share for the period ending on December 1, 1978 and for subsequent periods shall be equal to the sum of (1) 117.65% of the total of (A) \$50.00 multiplied by (B) the sum of (x) one-half of the Libor Rate (as defined in subparagraph (ii)(e)) for such quarter-yearly dividend period plus (y) 114% and (2) the amount, if any, by which the aggregate dividends per share of Series D Preferred Stock for all prior dividend periods would, if computed in accordance with this sentence without reference to this subdivision (2) exceed the amount of such aggregate dividends per share if computed at the annual rate of \$5.00 per share; provided, however, that, if and whenever the Company receives the written consent of the holders of a majority of the shares of Series D Preferred Stock then outstanding, the aforementioned 117.65% will thereupon be reduced (but not to less than 100%) or eliminated.

(c) If the alternate annual dividend rate in respect of any quarter-yearly dividend period, as determined in accordance with subparagraph (ii)(b), is greater than \$5.00 per share and if at the start of such dividend period the aggregate dividends per share of Series D Preferred Stock paid, or accrued but unpaid, for all prior dividend periods is less than the aggregate amount of dividends per share for such periods would have been if computed at the annual rate of \$5.00 per share (such difference being called the "Deficiency"), then the dividend applicable to such quarter-yearly dividend period shall be increased by an amount from such Deficiency so that such dividend shall be equal to a dividend which is the lesser of (1) \$1.25 plus the Deficiency and (2) the dividend calculated in accordance with such alternate annual dividend rate.

(d) In the event that the Company at any time shall have determined that by reason of circumstances affecting the London interbank Eurodollar market, adequate and reasonable means do not exist for ascertaining the Libor Rate applicable to any quarter-yearly dividend period, the Company shall forthwith mail a notice of such determination to the holders of Series D Preferred Stock of record on a date not more than 10 days prior to such mailing and may, but shall not be required to, propose a rate to be used for such quarter-yearly dividend period as a substitute for the Libor Rate. If within 10 days following such mailing the holders of at least two-thirds of the shares of Series D Preferred Stock then outstanding shall agree in writing to such proposed substitute rate and its duration, such rate shall be and become the

Labor Rate for such duration for all purposes, and the Company shall promptly mail notice of the rate to all holders of Series D Preferred Stock.

(c) As used in this paragraph (ii) the following terms shall have the following meanings:

(1) "Labor Rate" shall mean in respect of the quarter-yearly dividend periods beginning March 2, June 2, September 2 and December 2 the arithmetic average of the arithmetic average of the rates quoted at approximately 11 A.M. London time on the five Business Days immediately prior to the preceding fifteenth day of December, March, June and September, respectively, by the principal London office or branch of each of the Reference Banks which is quoting such a rate on any of such five Business Days for offering to prime banks in the London interbank market of loans of United States dollars in an amount approximately equal to \$50.00 times the number of shares of Series D Preferred Stock then outstanding for a period comparable to the quarter-yearly dividend period, for delivery on the first day of such period.

(2) "Business Day" shall mean any day on which dealings in foreign currencies and exchange between lenders may be carried on in London, England.

(3) References to quarter-yearly dividend periods shall mean one or more periods ending on March 1, June 1, September 1 or December 1, as the case may be, and commencing on the second day of the third month preceding such date.

(4) "Reference Banks" shall mean The Chase Manhattan Bank, N.A., Continental Illinois National Bank and Trust Company of Chicago and Bank of America NT & SA and their respective successors. In the event that for any reason there are at any time less than three Reference Banks which regularly quote a Labor Rate, then the Company may designate any of the following as a Reference Bank to replace any prior Reference Bank which no longer regularly quotes a Labor Rate, or which has combined with another Reference Bank, until there are three Reference Banks, Citibank, N.A., Morgan Guaranty Trust Company of New York and The Royal Bank of Canada. The Company shall promptly mail a notice to holders of record of Series D Preferred Stock of each such designation.

(f) Not less than 60 days prior to the first day of each quarter-yearly dividend period, the Company will mail to holders of Series D Preferred Stock of record on a date not more than 75 days prior thereto a notice giving full details of its determination in accordance with this paragraph (ii) of the alternate annual dividend rate applicable to such quarter-yearly dividend period.

(iii) (a) The Company may, at the option of the Board of Directors, at any time on or after March 1, 1981, but (except as provided in subparagraph (iii)(b)) not prior thereto, redeem the whole or any part of the then outstanding Series D Preferred Stock at \$50.50 per share if redeemed on or prior to February 28, 1985, and at \$50.00 per share if redeemed at any time thereafter (such amounts being herein referred to as the "redemption price"), together in each case with a sum, for each share so to be redeemed, equal to the aggregate dividends accrued in respect thereof as determined in accordance with paragraph (ii) hereof (referred to in this Section as "Aggregate Dividends") from and after the date of issuance of such share to and including the date fixed for redemption in a notice of redemption given in accordance with subdivision (5) of Article THIRD of the Certificate of Incorporation, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest. All redemptions pursuant to this paragraph (iii) shall be pro rata, as nearly as may be, among the holders of the Series D Preferred Stock according to the number of shares held by each holder.

(b) In the event that at any time adequate and reasonable means do not exist for ascertaining the Labor Rate, the Company, at the option of the Board of Directors, at any time

within 90 days after making the notice of its determination that such condition is referred to in subparagraph (ii)(d) hereof, may redeem, unless a substitute Letter Resolution is adopted **upon as provided in such subparagraph (ii)(d)**, the whole of the then outstanding Series D Preferred Stock at \$50.00 per share, together with a sum, for each share so to be redeemed, equal to the Aggregate Dividends from and after the date of issuance of such share to and including the date fixed for redemption in a notice of redemption given in accordance with subdivision (5) of Article THIRD of the Certificate of Incorporation, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest.

(iv) Shares of the Series D Preferred Stock shall be entitled to the benefits of a sinking fund as follows:

(a) So long as any shares of the Series D Preferred Stock are outstanding, the Company shall, as a sinking fund for the retirement of shares of Series D Preferred Stock, redeem, out of funds legally available therefor, 332,500 shares of Series D Preferred Stock on March 1, 1986, 332,500 shares on March 1, 1987 and all shares, if any, then outstanding on March 1, 1988, in each case at \$50.00 per share, together in each case with a sum, for each share so to be redeemed, equal to the Aggregate Dividends from and after the date of issuance of such share to and including the date fixed for redemption in a notice of redemption given in accordance with subdivision (5) of Article THIRD of the Certificate of Incorporation, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest.

(b) All redemptions pursuant to this paragraph (iv) shall be pro rata, as nearly as may be, among the holders of the Series D Preferred Stock according to the number of shares held by each holder. Shares of Series D Preferred Stock redeemed at the option of the Company pursuant to paragraph (iii) hereof or otherwise purchased or acquired by the Company may (to the extent not theretofore credited) be credited to, and if credited shall relieve the Company to that extent from, the sinking fund obligation of the Company set forth in subparagraph (iv)(a) hereof.

(c) All shares of the Series D Preferred Stock redeemed, purchased or otherwise acquired and retired by the Company shall be cancelled, shall not be reissued as shares of the Series D Preferred Stock and shall constitute authorized and unissued shares of the Preferred Stock.

(d) So long as any shares of the Series D Preferred Stock shall remain outstanding, in no event shall any dividends, whether in cash, stock or otherwise, be paid or declared, or any distribution be made on any stock of the Company ranking junior to the Series D Preferred Stock, nor shall any shares of such stock ranking junior to the Series D Preferred Stock be purchased, redeemed, retired or otherwise acquired for a valuable consideration by the Company unless the Company shall have redeemed, pursuant to subparagraph (iv)(a) hereof the number of shares of Series D Preferred Stock required to have been theretofore redeemed pursuant to said subparagraph (iv)(a) (without reference to any provision of said subparagraph (iv)(a) which limits the Company's obligation to make such redemption), but a deficiency in the sinking fund requirements shall have no other consequence except as provided in subparagraph (iv)(c) hereof.

(e) In the event that, at a time when the holders of Preferred Stock do not have the right to elect a director pursuant to the second paragraph of subdivision (8) of Article THIRD of the Certificate of Incorporation, the Company shall have failed to have redeemed when required (without reference to any provision of said subparagraph (iv)(a) which limits the Company's obligation to make such redemption) shares of Series D Preferred Stock or shares of any other series of Preferred Stock having a similar right to elect a director by reason of a failure of the Company to redeem shares of such Preferred Stock pursuant to a mandatory sinking fund provision (such other Preferred Stock

together with the Series D Preferred Stock being hereinafter referred to as Sinking Fund Preferred Stock), the holders of the then outstanding Sinking Fund Preferred Stock, in addition to any right of holders of any series of Sinking Fund Preferred Stock, to vote with the Common Stock at the election of other directors, shall be entitled to elect a single director of the Company, such director to be elected by such holders at the next annual meeting of shareholders, voting separately from all other classes and series of capital stock of the Company, each share of Sinking Fund Preferred Stock having one vote, as a director of the class of directors then being elected, to hold office for a term of three years or until his successor is elected and qualified; provided, however, that the person so elected a director shall, as a condition to his qualification as a director of the Company, submit to the Board of Directors his written resignation effective if and when the earlier of the following occurs: (a) the Company has redeemed the shares of Sinking Fund Preferred Stock which the Company is required by the terms thereof theretofore to have redeemed or (b) the holders of Preferred Stock elect a director pursuant to the second paragraph of subdivision (8) of Article Tenth of the Certificate of Incorporation. If either of the foregoing occurs, the Sinking Fund Preferred Stock shall then be divested of the right to elect a director pursuant to this subparagraph (iv)(e), subject to the revesting of same in the event of any similar future failure by the Company to meet redemption obligations, and the directors of the Company, exclusive of such director elected pursuant to this subparagraph (iv)(e), may by a majority vote accept the aforesaid resignation of such director and thereupon elect in the place and stead of such director a new director to fulfill the unexpired term of such resigning director. If, for any reason other than acceptance of the aforesaid resignation of such director, the office of such director becomes vacant, the remaining directors shall not be entitled to elect a successor, but instead, such vacancy shall be filled by the holders of the Sinking Fund Preferred Stock then outstanding by written approval of such successor by the holders of a majority of the then outstanding shares of Sinking Fund Preferred Stock or by vote of the holders of the then outstanding shares of Sinking Fund Preferred Stock, voting as aforesaid, at the next annual meeting of shareholders or at a special meeting of such holders called for such purpose. The Company shall promptly call such a special meeting for such purpose at the request of any holder or holders of at least 5% of the then outstanding shares of Sinking Fund Preferred Stock.

(v) In the event of any voluntary liquidation, dissolution or winding up of the Company the holders of the Series D Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, the redemption price per share which such holders would have been entitled to receive had such shares been redeemed pursuant to subparagraph (iii)(a) hereof on the date fixed for payment, or, if redemption on such date is not provided for, the maximum redemption price at which such shares are thereafter redeemable pursuant to subparagraph (iii)(a) hereof, plus in respect of each such share a sum equal to the Aggregate Dividends from and after the date of issuance of such share to and including the date of such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest. In the event of any involuntary liquidation, dissolution or winding up of the Company, the holders of the Series D Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, an amount equal to \$50.00 per share, plus in respect of each such share a sum equal to the Aggregate Dividends from and after the date of issuance of such share to and including the date of such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest.

(vi) (a) Except as otherwise required by law, the Series D Preferred Stock shall have no voting rights except as set forth in Section 8 of Article Tenth of the Certificate of Incorporation, in subparagraph (iv)(e) above and in subparagraphs (vi)(b) and (c) below.

(b) So long as any shares of the Series D Preferred Stock are outstanding, the consent of the holders of the then outstanding Preferred Stock as required by law, but in no event less than the holders of at least a majority of the then outstanding shares of the Preferred Stock, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) Any increase in the authorized amount of the Preferred Stock, or the authorization, or any increase in the authorized amount, of any class of stock ranking on a parity with the Preferred Stock.

(ii) The sale, lease or conveyance (other than by mortgage) of all or substantially all of the property or business of the Company; or the consolidation or merger of the Company into any other corporation, unless the corporation resulting from such merger or consolidation shall have thereafter no class of stock, either authorized or outstanding, ranking prior to or on a parity with shares corresponding to the Preferred Stock, except the same number of shares with no greater rights and preferences than the shares of Preferred Stock authorized immediately preceding such consolidation or merger, and unless each holder of Preferred Stock immediately preceding such consolidation or merger shall receive the same number of shares, with substantially the same rights and preferences, of the resulting corporation; provided, however, that the resulting corporation may have authorized and outstanding such additional shares of stock having preferences or priorities over or being on a parity with the Preferred Stock as the holders of Preferred Stock of the Company may have previously authorized pursuant to the Certificate of Incorporation; and provided, further, that this requirement of consent by the holders of Preferred Stock shall not be deemed to apply to or operate to prevent either the purchase by the Company of the assets or stock, in whole or in part, of any other corporation, or the sale by the Company or any subsidiary of all or part of the capital stock or assets of other corporations, including a subsidiary, or the sale of a division or divisions of the Company or of any subsidiary, or any other sale of property or assets which constitutes less than substantially all of the property or assets of the Company.

No vote of the Preferred Stock shall be required under this subparagraph (vi)(b), if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, sufficient funds have been deposited in trust in accordance with the fifth paragraph of subdivision (5) of Article THIRD of the Certificate of Incorporation for the redemption of all shares of the Preferred Stock at the time outstanding.

(c) So long as any shares of the Series D Preferred Stock are outstanding, the consent of the holders of the then outstanding Preferred Stock as required by law, but in no event less than the holders of at least two-thirds of the then outstanding shares of the Preferred Stock, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) The authorization or any increase in the authorized amount of any class of stock ranking prior to the Preferred Stock.

(ii) The amendment, alteration or repeal of any of the provisions of the Certificate of Incorporation which would affect adversely any right, preference, privilege or voting power of the Preferred Stock or of the holders thereof (including, but not limited to, any alteration or change in the annual dividend rates on the Preferred Stock, the cumulative or preferential nature of the annual dividend rates on the Preferred Stock or the date from which such dividends are cumulative or any alteration or change in the quarterly dividend payment dates with respect to the Preferred Stock); provided, however, that if any such amendment, alteration or repeal would affect adversely any right, preference, privilege or voting power of the Series D Preferred Stock which is not enjoyed by the Pre-

ferred Stock as a class, the consent of the holders of at least two-thirds of the outstanding shares of such series, similarly given, shall be required in lieu of the consent of the holders of two-thirds of the shares of the Preferred Stock as a class.

No vote of the Preferred Stock shall be required under this subparagraph (vi)(c) if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, sufficient funds have been deposited in trust in accordance with the fifth paragraph of subdivision (5) of Article THIRD of the Certificate of Incorporation for the redemption of all shares of Preferred Stock at the time outstanding.

FOURTH: The location of the office of the corporation shall be the City, County and State of New York. The Secretary of State of the State of New York is designated as the agent of the corporation upon whom process in any action or proceeding against it may be served within the State of New York, and the address to which the Secretary of State shall mail a copy of any process against the corporation which may be served upon him pursuant to law is C T Corporation System, 277 Park Avenue, New York, New York 10017. The name and address of the registered agent which is the agent of the corporation upon whom process against it may be served are C T Corporation System, 277 Park Avenue, New York, New York 10017.

FIFTH: The existence of the corporation is to be perpetual.

SIXTH: The number of Directors of the corporation shall be not less than fifteen nor more than twenty-three, with the precise number determined in the manner prescribed by the By-Laws, divided into three classes as nearly equal in number as practicable so that the term of office of one class of Directors will expire each year. This classification of Directors shall not be changed and the number of Directors shall not be decreased below fifteen except by the vote of at least 90% in amount of the outstanding shares entitled to vote thereon.

At each Annual Meeting of Stockholders the successors of the class of Directors whose term shall expire in that year shall be elected for a term of three years and until their respective successors are elected and qualify. If the number of Directors be increased within the limits above set forth, the additional Directors may be elected by a majority of the Directors in office at the time of the increase, or, if not so elected prior to the next Annual Meeting of Stockholders, or if the By-Laws so provide, they shall be elected by vote of the stockholders. Other vacancies in the Board of Directors shall be filled in the manner prescribed in the By-Laws. Directors chosen to fill such vacancies shall hold office for the unexpired term of the Director with respect to whom the vacancy occurred or until their successors shall be duly elected and qualify.

Directors need not be stockholders.

4. This restatement of the Certificate of Incorporation was authorized by the Board of Directors at a meeting duly held.

IN WITNESS WHEREOF, we have executed this certificate and affirm the truth of the statements therein set forth under penalty of perjury this second day of May 1980.

By 
(PIERRE GOUSSEI) Chairman of the Board

By 
(DAVID GEORGE BALL) Secretary

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED MAY 2 - 1980

AMT OF CHECK \$ 222
FILING FEE \$ 2
TAX \$ 0
COPY \$ 0
CERT \$ 0
REFUND \$ 0

RESTATED CERTIFICATE OF INCORPORATION

OF

AMAX Inc.

Under Section 807 of the Business Corporation Law

A865719

RAYMOND J. COOKE, Esq.
AMAX Inc.
AMAX Center
Greenwich, Connecticut 06830