(5) Stock issued or issuable under articles of merger;

(6) Stock which is not presently entitled to be voted in the election of directors issued for at least its fair value;

(7) Stock, including treasury stock, issued to an officer or other employee of the corporation or its subsidiary on terms and conditions approved by the stockholders by the affirmative vote of two thirds of all the votes entitled to be cast on the matter; and

(8) Any other issuance of shares if the applicability of preemptive rights is impracticable.

(b) In the absence of actual fraud or gross disparity in the determination, the fair value of stock determined by the board of directors and recorded in the resolution authorizing the issuance is conclusive.

(c) Unless the charter provides otherwise, holders of the following securities do not have any preemptive rights:

(1) Bonds, notes, debentures, or other obligations convertible into stock; and

(2) Stock not presently entitled to be voted in the election of directors.]

(A) UNLESS THE CHARTER EXPRESSLY GRANTS SUCH RIGHTS TO THE STOCKHOLDER, A STOCKHOLDER DOES NOT HAVE ANY PREEMPTIVE RIGHT TO SUBSCRIBE TO:

(1) ANY ADDITIONAL ISSUE OF STOCK; OR

(2) ANY SECURITY CONVERTIBLE INTO AN ADDITIONAL ISSUE OF STOCK.

(B) (1) A STOCKHOLDER TO WHOM A PREEMPTIVE RIGHT HAS BEEN GRANTED MAY WAIVE THE PREEMPTIVE RIGHT.

(2) A WRITTEN WAIVER OF A PREEMPTIVE RIGHT IS IRREVOCABLE EVEN THOUGH IT IS NOT SUPPORTED BY CONSIDERATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any preemptive rights in existence before the effective date of this Act. Such preemptive rights shall remain in existence unaffected by this Act unless and until expressly changed or terminated by a charter amendment.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1995.

Approved May 18, 1995.