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GABELLI EQUITY TRUST INC

Form N-2/A

October 01, 2003

As filed with the Securities and Exchange Commission on October 1, 2003
Securities Act File No. 333-106081
Investment Company Act File No. 811-4700

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM N-2

- Registration Statement under the Securities Act of 1933
 Pre-Effective Amendment No. 2
 Post-Effective Amendment No.

and/or

- Registration Statement under the Investment
Company Act of 1940
 Amendment No. 33

(Check Appropriate Box or Boxes)

THE GABELLI EQUITY TRUST INC.
(Exact Name of Registrant as Specified in Charter)

One Corporate Center
Rye, New York 10580-1422
(Address of Principal Executive Offices)

Registrant's Telephone Number, Including Area Code: (800) 422-3554

Bruce N. Alpert
The Gabelli Equity Trust Inc.
One Corporate Center
Rye, New York 10580-1422
(914) 921-5100 (Name and Address of Agent for Service)

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New York, New York 10017
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Approximate date of proposed public offering: As soon as practicable
after the effective date of this Registration Statement.

If any securities being registered on this form will be offered on a
delayed or continuous basis in reliance on Rule 415 under the Securities Act

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of 1933, as amended, other than securities offered in connection with a dividend reinvestment plan, check the following box. []

It is proposed that this filing will become effective (check appropriate box)
 When declared effective pursuant to section 8(c).

If appropriate, check the following box:
 This [post-effective] amendment designates a new effective date for a previously filed [post-effective amendment] [registration statement].

This form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act and the Securities Act registration statement number of the earlier effective registration statement for the same offering is [].

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities	Amount Being Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price (1)	Amount Registered
___% Series D Cumulative Preferred Stock	3,000,000 Shares	\$25	\$75,000,000	\$
Series E Auction Rate Cumulative Preferred Stock	2,000 Shares	\$25,000	\$50,000,000	\$

(1) Estimated solely for the purpose of calculating the registration fee.
 (2) \$322 previously paid

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said section 8(a), may determine.

CROSS-REFERENCE SHEET

N-2 Item Number	Location in Part A (Caption)
PART A	

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1.	Outside Front Cover.....	Outside Front Cover Page
2.	Inside Front and Outside Back Cover Page.....	Outside FrontCover Page; Inside Front Cover Page
3.	Fee Table and Synopsis.....	Not Applicable
4.	Financial Highlights.....	Financial Highlights
5.	Plan of Distribution.....	Outside Front Cover Page; Summary; Underwriting
6.	Selling Shareholders.....	Not Applicable
7.	Use of Proceeds.....	Use of Proceeds; Investment Objecti Policies
8.	General Description of the Registrant.....	Outside Front Cover Page; Summary; Investment Objectives and Policies; & Special Considerations; How the F Manages Risk; Description of Serie and Series E Auction Rate Preferred takeover Provisions of the Charter
9.	Management.....	Outside Front Cover Page; Summary; Management of the Fund; Custodian, Agent, Auction Agent and Dividend-D Agent
10.	Capital Stock, Long-Term Debt, and Other Securities.....	Outside Front Cover Page; Summary; Objectives and Policies; Descriptio Preferred and Series E Auction Rate Description of Capital Stock and Ot Taxation; Anti-takeover Provisions and By-Laws
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11.	Defaults and Arrears on Senior Securities.....	Not Applicable
12.	Legal Proceedings.....	Not Applicable
13.	Table of Contents of the Statement of Additional Information.....	Table of Contents of the Statement Information
PART B		Location in Statement of Additional Information

14.	Cover Page.....	Outside Front Cover Page
15.	Table of Contents.....	Outside Front Cover Page
16.	General Information and History.....	The Fund

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17.	Investment Objectives and Policies.....	Investment Objectives and Policies; Investment Restrictions
18.	Management.....	Management of the Fund
19.	Control Persons and Principal Holders of Securities.....	Management of the Fund; Beneficial
20.	Investment Advisory and Other Services.....	Management of the Fund
21.	Brokerage Allocation and Other Practices.....	Portfolio Transactions
22.	Tax Status.....	Taxation
23.	Financial Statements.....	Financial Statements

PART C

Information required to be included in Part C is set forth under the appropriate Item, so numbered, in Part C to this Registration Statement.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED OCTOBER 1, 2003

PROSPECTUS \$125,000,000 [GABELLI LOGO]

The Gabelli
Equity Trust Inc.

3,000,000 Shares, [__]% Series D Cumulative Preferred Stock
(Liquidation Preference \$25 per Share)

2,000 Shares, Series E Auction Rate Cumulative Preferred Stock
(Liquidation Preference \$25,000 per Share)

The Gabelli Equity Trust Inc., or the Fund, is a closed-end, non-diversified management investment company that has a primary investment objective of long-term growth of capital and a secondary investment objective of income. The Fund's investments are selected by its Investment Adviser, Gabelli Funds, LLC. The Fund invests primarily in equity securities including common stock, preferred stock, convertible or exchangeable securities and warrants and rights to purchase such securities. We cannot assure you that the Fund's objectives will be achieved.

This prospectus describes shares of the Fund's [__]% Series D Cumulative Preferred Stock (the "Series D Preferred"), liquidation preference \$25 per share. Dividends on shares of the Series D Preferred are cumulative from such original issue date at the annual rate of [__]% of the liquidation

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preference of \$25 per share and are payable on March 26, June 26, September 26 and December 26 in each year, commencing on [__], 2003.

This prospectus also describes shares of the Fund's Series E Auction Rate Cumulative Preferred Stock (the "Series E Auction Rate Preferred"), liquidation preference \$25,000 per share. The dividend rate for the Series E Auction Rate Preferred will vary from dividend period to dividend period. The annual dividend rate for the initial dividend period for the Series E Auction Rate Preferred will be [__]% of the liquidation preference of \$25,000 per share. The initial dividend period is from the date of issuance through [__], 2003. For subsequent dividend periods, the Series E Auction Rate Preferred will pay dividends based on a rate set at auction, usually held weekly.

The Fund offers by this prospectus, in the aggregate, \$125 million of preferred stock of either Series D Preferred, or Series E Auction Rate Preferred, or a combination of both series.

Investing in our Series D Preferred or Series E Auction Rate Preferred involves risks. See "Risk Factors and Special Considerations" beginning on page 31.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

	Series D Preferred Per Share -----	Total -----	Series E Auction Rate Preferred Per Share -----	Total -----
Public Offering Price(1)	\$ 25.00	\$	\$ 25,000	\$
Underwriting Discount(2)	\$	\$	\$	\$
Proceeds to the Fund (before expenses) (3)	\$	\$	\$	\$

- (1) Plus accumulated dividends, if any, from [__] , 2003.
- (2) The Fund and the Investment Adviser have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933, as amended.
- (3) Offering expenses payable by the Fund are estimated at \$ [__].

Citigroup
[__], 2003

Gabelli & Company, Inc.

Merrill Lynch & Co.

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(Continued from previous page)

The shares of Series D Preferred and/or Series E Auction Rate Preferred being offered by this prospectus are being offered by the underwriters listed in this prospectus, subject to prior sale, when, as and if accepted by them and subject to certain conditions. The Fund expects that delivery of any shares of Series D Preferred or Series E Auction Rate Preferred will be made in book-entry form through the facilities of The Depository Trust Company ("DTC") on or about [__], 2003.

Application will be made to list the Series D Preferred on the New

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York Stock Exchange. If offered, trading of the Series D Preferred on the New York Stock Exchange is expected to commence within 30 days of the date of this prospectus. Prior to this offering, there has been no public market for the Series D Preferred. See "Underwriting."

The Series E Auction Rate Preferred will not be listed on an exchange. Investors may only buy or sell Series E Auction Rate Preferred through an order placed at an auction with or through a broker-dealer in accordance with the procedures specified in this prospectus or in a secondary market maintained by certain broker-dealers should those broker-dealers decide to maintain a secondary market. Broker-dealers are not required to maintain a secondary market in the Series E Auction Rate Preferred and a secondary market may not provide you with liquidity.

The net proceeds of the offering, which are expected to be [___], will be invested in accordance with the Fund's investment objectives and policies. See "Investment Objectives and Policies" beginning on page 26.

The Fund expects that dividends paid on the Series D Preferred and Series E Auction Rate Preferred will consist of (i) long-term capital gain (gain from the sale of a capital asset held longer than 12 months), (ii) qualified dividend income (income from domestic and certain foreign corporations), and (iii) investment company taxable income (other than qualified dividend income, including short-term capital gain and interest income and non-qualified dividend income). For individuals, the maximum federal income tax rate on long-term capital gains is currently 15%, on qualified dividend income is 15%, and on other types of income is 35%. These tax rates are scheduled to apply through 2008. Over the past three years, approximately 89% of the Fund's distributions to stockholders consisted of long-term capital gain and, of the remaining 11% distributed to stockholders, 68% would have, under the current tax provisions, constituted qualified dividend income taxable at the 15% rate. Over the last one year, approximately 93% of the Fund's distributions to stockholders consisted of long-term capital gain and, of the remaining 7% distributed to stockholders, approximately 99% would have, under the current tax provisions, constituted qualified dividend income taxable at the 15% rate. We cannot assure you, however, as to what percentage of the dividends paid on the Series D Preferred or Series E Auction Rate Preferred will consist of long-term capital gains and qualified dividend income, which are currently taxed at lower rates for individuals than ordinary income. For a more detailed discussion, see "Taxation."

Neither the Series D Preferred nor the Series E Auction Rate Preferred may be issued unless it is rated "Aaa" by Moody's. In addition, the Series E Auction Rate Preferred may not be issued unless it is also rated "AAA" by S&P. In order to keep these ratings, the Fund will be required to maintain a minimum discounted asset coverage with respect to its outstanding Series D Preferred and Series E Auction Rate Preferred under guidelines established by each of Moody's and S&P. See "Description of the Series D Preferred and Series E Auction Rate Preferred -- Rating Agency Guidelines." The Fund is also required to maintain a minimum asset coverage by the Investment Company Act of 1940, as amended. If the Fund fails to maintain any of these minimum asset coverage requirements, the Fund can at its option (and in certain circumstances must) require, in accordance with its Charter and the requirements of the Investment Company Act of 1940, as amended, that some or all of its outstanding preferred stock, including the Series D Preferred and/or Series E Auction Rate Preferred, be redeemed. Otherwise, prior to [___], 2008 the Series D Preferred will be redeemable at the option of the Fund only to the extent necessary for the Fund to continue to qualify for tax treatment as a regulated investment company. Subject to certain notice and other requirements (including those set forth in Section 23(c) of the Investment Company Act of 1940, as amended), the Fund at its option may redeem (i) the Series D Preferred beginning on [___], 2008 and (ii) the Series E Auction Rate

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Preferred following the initial dividend period (so long as the Fund has not designated a non-call period). In the event the Fund redeems the Series D Preferred, such redemption will be for cash at a redemption price equal to \$25 per share plus accumulated but unpaid dividends (whether or not earned or declared) to the date of redemption. In the event the Fund redeems the Series E Auction Rate Preferred, such redemptions will be for cash, generally at a redemption price equal to \$25,000 per share plus accumulated but unpaid dividends (whether or not earned or declared), though in limited circumstances the Fund's Board of Directors may also declare a redemption premium. See "Description of Series D Preferred and Series E Auction Rate Preferred - Redemption."

This prospectus concisely sets forth important information about the Fund that you should know before deciding whether to invest in Series D Preferred or Series E Auction Rate Preferred. You should read this prospectus and retain it for future reference.

The Fund has also filed with the Securities and Exchange Commission a Statement of Additional Information, dated [___], 2003, which contains additional information about the Fund. The Statement of Additional Information is incorporated by reference in its entirety into this prospectus. You can review the table of contents of the Statement of Additional Information on page [___] of this prospectus. You may request a free copy of the Statement of Additional Information by writing to the Fund at its address at One Corporate Center, Rye, New York 10580-1422 or calling the Fund toll-free at (800) 422-3554. You may also obtain the Statement of Additional Information as well as reports, proxy and information statements and other information regarding registrants, including the Fund, that file electronically with the Securities and Exchange Commission on the Securities and Exchange Commission's web site (<http://www.sec.gov>).

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Certain persons participating in the offering of the Series D Preferred, in the event any is offered, may engage in transactions that stabilize, maintain or otherwise affect the market price of the Series D Preferred, including the entry of stabilizing bids, syndicate covering transactions or the imposition of penalty bids. For a description of these activities, see "Underwriting."

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You should rely only on the information contained in or incorporated by reference into this prospectus. Neither the Fund nor the underwriters have authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. Neither the Fund nor the underwriters are making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted.

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SUMMARY

This is only a summary. You should review the more detailed information contained in this prospectus and the Statement of Additional Information, dated [___], 2003 (the "SAI").

The Fund..... The Fund is a closed-end, non-diversified, management investment company that has been in operation since August 21, 1986. The Fund was incorporated in Maryland on May 20, 1986. The Fund's outstanding shares of common stock, par value \$.001 per share, were listed and traded on the New York Stock Exchange ("NYSE") from September 15, 2003, the sum of the net assets of the Fund as of September 15, 2003, the liquidation value of the Fund's outstanding preferred stock (approximately \$1,253 million) was approximately \$1,253 million. As of September 15, 2003, the Fund had outstanding 136,014,878 shares of common stock, 6,600,000 shares of the 7.20% Tax Advantaged Series B Cumulative Preferred Stock (the "Series B Preferred") and 5,200 shares of Series C Auction Rate Cumulative Preferred Stock (the "Series C Auction Rate Preferred"). The Fund completed its redemption of its outstanding 7.25% Tax Advantaged Cumulative Preferred Stock (the "Series A Preferred") on June 17, 2003. The Series A Preferred and the Series C Auction Rate Preferred have the same seniority with respect to dividends and liquidation preference.

The Offering..... The Fund offers by this prospectus, in the aggregate, \$100 million of preferred stock of either Series D Preferred or Series E Preferred.

Rate Preferred, or a combination of both such series. The Preferred and/or Series E Auction Rate Preferred are being sold by Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Gabelli & Company, Inc., as underwriters. Upon issuance, the Series D Preferred and the Series E Auction Rate Preferred will have equal seniority with respect to dividend and liquidation preference to the Fund's other outstanding preferred stock. See "Description of the Series D Preferred and Series E Auction Rate Preferred."

Series D Preferred. The Fund is offering 3,000,000 shares of Series D Preferred, par value \$.001 per share, liquidation preference \$25,000 per share, at a purchase price of \$25 per share plus dividends, if any, that have accumulated from the commencement date of the period during which such Series D Preferred is issued. Dividends on the shares of Series D Preferred will accumulate from the date on which such shares are issued. Application has been made to list the Series D Preferred on the NYSE and it is anticipated that the listing of the Series D Preferred on the NYSE will commence within 30 days of the date of issuance.

Series E Auction Rate Preferred. The Fund is offering 2,000,000 shares of Series E Auction Rate Preferred, par value \$.001 per share, liquidation preference \$25,000 per share, at a purchase price of \$25,000 per share, plus dividends, if any, that have accumulated from the commencement date of the dividend period during which the Series E Auction Rate Preferred is issued.

Preferred is issued.

The Series E Auction Rate Preferred will not be listed on the NYSE exchange. Instead, investors may buy or sell Series E Auction Rate Preferred in an auction by submitting orders to broker-dealers who have entered into an agreement with the auction agent and the Fund.

Generally, investors in Series D Preferred or Series E Auction Rate Preferred will not receive certificates representing ownership of their shares. The securities depository (The Depository Trust Company ("DTC") or any successor) or its nominee for the account of the investor's broker-dealer will maintain record ownership of the Series D Preferred stock in book-entry form. An investor's broker-dealer, in turn, will maintain records of that investor's beneficial ownership of preferred stock.

Investment Objectives
and Methodology.....

Investment Objectives. The Fund's primary investment objective is the long-term growth of capital, primarily through investment in a diversified portfolio of equity securities including common stock, preferred stock, convertible or exchangeable securities and warrants and options to purchase such securities. Income is a secondary objective. No assurance can be given that the Fund will achieve its investment objectives. See "Investment Objectives and Policies."

Investment Methodology. In selecting securities for the Fund, the Investment Adviser normally will consider the following factors, among others: (i) the Investment Adviser's own evaluation of the private market value, cash flow, earnings per share and other fundamental aspects of the underlying assets and business of the company; (ii) the potential for capital appreciation of the securities; (iii) the interest or dividend income generated by the securities.

securities; (iv) the prices of the securities relative to comparable securities; (v) whether the securities are entitled to the benefits of call protection or other protective covenant provisions; (vi) events of acceleration or events of default or failure to meet certain financial ratios or to satisfy other financial covenants or benchmarks); (vi) the existence of any anti-dilution provisions or guarantees of the security; and (vii) the diversification of the Fund's portfolio as to issuers. The Investment Adviser's investment philosophy with respect to equity securities is to identify securities of companies that are selling in the market at a discount to their private market value, which the Investment Adviser defines as the value informed purchasers would be willing to pay to acquire assets with similar characteristics. The Investment Adviser also normally evaluates the issuer's operating performance, cash flow and long-term earnings trends. Finally, the Investment Adviser looks for a catalyst - something in the company's industry or environment indigenous to the company or country itself that will supply additional value.

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Portfolio Contents. Although under normal market conditions, approximately 80% of the Fund's total assets will consist of equity securities, when a temporary defensive posture is believed by the Investment Adviser to be warranted, the Fund may without limitation invest its assets in money market instruments and repurchase agreements in respect of those instruments. The Fund may invest up to 10% of the market value of its total assets during defensive periods in shares of money market mutual funds, primarily in U.S. government securities and repurchase agreements in respect of those securities, which, in the absence of applicable exemptive relief are not affiliated with the Investment Adviser. Such actions on the part of the Fund may adversely affect its ability to achieve its secondary investment objective of income.

The Fund may invest up to 10% of its total assets in fixed income securities issued by U.S. and foreign corporations, government agencies that are rated below investment grade by primary rating services such as Standard & Poor's Ratings Services ("S&P") and Moody's Investors Service, Inc. ("Moody's"). These high-risk securities are commonly known as "junk bonds" and such securities are predominantly speculative and involve major exposure to adverse conditions.

The Fund may invest up to 35% of its total assets in foreign securities. Among the foreign securities in which the Fund invests are those issued by companies located in developing countries and in countries in the initial stages of their industrialization cycles. Investing in the equity and debt markets of developing countries involves exposure to economic structures that are less diverse and less mature, and to political systems that are expected to have less stability, than those of developed countries. The markets of developing countries historically have been more volatile than the markets of the more mature economies of developed countries, but often have provided higher rates of return to investors. The Fund may also invest in debt securities of foreign governments.

Dividends and Distributions..... Series D Preferred. Dividends on the Series D Preferred stock shall be paid at a rate of [__]% of its \$25 per share liquidation preference, cumulative from the Series D Preferred's original issue date.

payable, when, as and if declared by the Board of Directors of the Fund, out of funds legally available therefor, quarterly on June 26, September 26 and December 26 in each year, commencing on [__], 2003.

Series E Auction Rate Preferred. The holders of Series E Auction Rate Preferred are entitled to receive cash dividends, stated at a dividend rate of its \$25,000 per share liquidation preference, from dividend period to dividend period. The table below sets forth the dividend rate, the dividend payment date and the number of days in the initial dividend period on the Series E Auction Rate Preferred.

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	Initial Dividend Rate	Dividend Payment Date for Initial Dividend Period	Number of Days in Initial Dividend Period
	-----	-----	-----
Series E Auction Rate Preferred.....	[__]%	[__], 2003	[__]

For subsequent dividend periods, the Series E Auction Rate Preferred will pay dividends based on a rate set at auctions, normally on a weekly basis. In most instances dividends are payable weekly on the first business day following the end of the dividend period. In the event that a dividend payment date which dividends otherwise would be paid is not a business day, dividends will be paid on the first business day that falls on or after the end of the dividend period. The Fund may, subject to certain conditions, designate special dividend periods of more than seven days. The dividend payment date for any such special dividend period will be set out in the notice designating the special dividend period. Dividends on shares of Series E Auction Rate Preferred shall be cumulative from the date such shares are issued and will be paid out of legally available funds.

In no event will the dividend rate set at auction for the Series E Auction Rate Preferred exceed the then-maximum rate. The term "then-maximum rate" means (i) in the case of a dividend period of 184 days or less, the applicable percentage of the "AA" Financial Composite Company Paper Rate on the date of such auction determined as set forth in the following chart based on the lower of the credit ratings of the Series E Auction Rate Preferred by Moody's and S&P or (ii) in the case of a dividend period of longer than 184 days, the applicable percentage of the Treasury Index Rate.

Moody's Credit Rating	S&P Credit Rating
AA3 or higher	AA- or higher
A3 to A1	A- to A+
Baa3 to Baa1	BBB- to BBB+
Below Baa3	Below BBB-

See "Description of the Series D Preferred and Series E Auction Rate Preferred -- Dividends on the Series E Auction Rate Preferred -- Maximum Rate." For example, calculated as of March 31, 2003 and March 30, 2003, respectively, the maximum rate for the Series E Auction Rate Preferred (assuming a rating of "Aaa" or above by Moody's or "AAA" or above by S&P) would have been approximately 1.8%.

for dividend periods of 90 days, and approximately 2.48%

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1.92% for dividend periods of two years.* There is no m applicable rate with respect to any dividend period.

Any designation of a special dividend period will be eff if, among other things, proper notice has been given, th immediately preceding the special dividend period was no auction and the Fund has confirmed that it has assets wi aggregate discounted value at least equal to the Basic M Amount (as defined in the applicable rating agency guide "Description of the Series D Preferred and Series E Auct Preferred -- Dividends on the Series E Auction Rate Pref "The Auction of Series E Auction Rate Preferred."

Preferred Stock Dividends. Under current law, all prefer the Fund must have the same seniority as to the payment Accordingly, no full dividend will be declared or paid o of preferred stock of the Fund for any dividend period, thereof, unless full cumulative dividends due through th dividend payment dates therefor for all series of outsta preferred stock of the Fund are declared and paid. If fu dividends due have not been declared and paid on all out shares of preferred stock of the Fund ranking on a parit Series D Preferred and/or Series E Auction Rate Preferre payment of dividends, any dividends being paid on the sh preferred stock (including any outstanding Series D Pref Series E Auction Rate Preferred) will be paid as nearly possible in proportion to the respective amounts of divi accumulated but unpaid on each such series of preferred relevant dividend payment date.

In the event that for any calendar year the total distri shares of the Fund's preferred stock exceed the Fund's i company taxable income (as that term is defined in the I Revenue Code of 1986, as amended (the "Code"), determine regard to the deduction for dividends paid) and net capi (i.e., the excess of its net realized long-term capital net realized short-term capital loss) allocable to those excess distributions will generally be treated as a tax- of capital (to the extent of the stockholder's tax basis her shares). The amount treated as a tax-free return of reduce a stockholder's adjusted basis in his or her shar preferred stock, thereby increasing the stockholder's po or reducing his or her potential loss on the sale of the

Common Stock. In order to allow its common stockholders predictable, but not assured, level of cash flow and som periodically on their investment without having to sell Fund has adopted a policy, which may be modified at any Board ----- * Dividend periods presented for illustra only. Actual dividend periods may be of greater or lesse

* Dividend periods presented for illustrative purposes only.
Actual dividend periods may be of greater or lesser duration.

of Directors, of paying distributions on its common stock at a rate of 10% of average quarter-end assets attributable to common stock. During the fiscal year ending December 31, 2002, the Fund made a distribution of \$0.95 per share of common stock, none of which constituted a return of capital. The Fund has made quarterly distributions with respect to its shares of common stock since 1987. A portfolio of returns during nine fiscal years since then have constituted a return of capital.

Auction Procedures..... You may buy, sell or hold Series E Auction Rate Preferred stock in an auction. The following is a brief summary of the auction procedures which are described in more detail elsewhere in this prospectus and the SAI. These auction procedures are complicated, and there are many exceptions to these procedures. Many of the terms in this prospectus have a special meaning as set forth in this prospectus or the SAI.

The auctions determine the dividend rate for the Series E Auction Rate Preferred, but each dividend rate will not be higher than the then-maximum rate. See "Description of the Series D Preferred Stock" and "Series E Auction Rate Preferred -- Dividends on the Series E Auction Rate Preferred."

If you own shares of Series E Auction Rate Preferred, you should instruct your broker-dealer to enter one of three kinds of orders in the auction with respect to your shares: sell, bid and hold.

If you enter a sell order, you indicate that you want to sell Series E Auction Rate Preferred at \$25,000 per share, no matter what the next dividend period's rate will be.

If you enter a bid (or "hold at a rate") order, which means you want a dividend rate, you indicate that you want to sell Series E Auction Rate Preferred only if the next dividend period's rate is at or below the rate you specify.

If you enter a hold order, you indicate that you want to continue to own Series E Auction Rate Preferred, no matter what the next dividend period's rate will be.

You may enter different types of orders for different portions of your Series E Auction Rate Preferred. You may also enter orders to buy additional Series E Auction Rate Preferred. All orders are for whole shares. All orders you submit are irrevocable. The dividend rate likely will vary from auction to auction depending on the number of bidders, the number of shares the bidders bid for, the rating of the Series E Auction Rate Preferred and general economic conditions including then current interest rates. If you own Series E Auction Rate Preferred and submit a bid for the Series E Auction Rate Preferred, your bid will be treated as a sell order. If you do not enter an order for a dividend period of 28 days, the broker-dealer will assume that you want to continue to own Series E Auction Rate Preferred.

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Preferred. If you fail to submit an order and the dividend is not paid longer than 28 days, the broker-dealer will treat your failure to submit a bid as a sell order.

If you do not then own Series E Auction Rate Preferred, and you wish to buy more shares, you may instruct a broker-dealer to enter an order to buy shares in an auction at \$25,000 per share at the dividend rate you specify. If you bid for shares you already own at a rate higher than the then-maximum rate, your bid will not be considered.

Broker-dealers will submit orders from existing and potential holders of Series E Auction Rate Preferred to the auction agent. The Fund nor the auction agent will be responsible for a broker-dealer's failure to submit orders from existing or potential holders of Series E Auction Rate Preferred. A broker-dealer's failure to submit an order for Series E Auction Rate Preferred held by it or its customer will be treated in the same manner as a holder's failure to submit an order to the broker-dealer. A broker-dealer may submit orders to the auction agent for its own account. The Fund may not submit orders in any auction.

After each auction for the Series E Auction Rate Preferred, the auction agent will pay to each broker-dealer, from funds of the Fund, a service charge equal to, in the case of any auction immediately preceding a dividend period of less than one year, the product of (i) a fraction, the numerator of which is the number of days in such dividend period and the denominator of which is 365, times (ii) 1/4 of 1%, times (iii) \$25,000, times (iv) the number of Series E Auction Rate Preferred shares placed by the broker-dealer at such auction or, in the case of any auction immediately preceding a dividend period of one year or longer, 1% of the percentage of the purchase price of the Series E Auction Rate Preferred placed by the broker-dealers at the auction agent. The Fund and the broker-dealers.

If the number of Series E Auction Rate Preferred shares subject to sell orders bid orders by potential holders with a dividend rate equal to or lower than the then-maximum rate is at least equal to the number of Series E Auction Rate Preferred shares subject to sell orders, the dividend rate for the next dividend period will be the maximum rate submitted which, taking into account that rate and the then-maximum rate, is the highest of the rates submitted in order from existing and potential holders. If the number of Series E Auction Rate Preferred shares subject to sell orders result in existing and potential holders owning all the Series E Auction Rate Preferred available for purchase in the auction, the dividend rate for the next dividend period will be the maximum rate submitted in order from existing and potential holders.

If the number of Series E Auction Rate Preferred shares subject to sell orders bid orders by potential holders with a dividend rate equal to or lower than the then-maximum rate is less than the number of Series E Auction Rate Preferred shares subject to sell orders, the auction is considered to be a failed auction and the dividend rate for the next dividend period will be the maximum rate. In that event, existing holders' submitted sell orders (or are treated as having submitted sell orders) may not be able to be filled.

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to sell any or all of the Series E Auction Rate Preferred shares subject to their submitted sell orders.

The auction agent will not consider a bid above the then-maximum rate.

rate. The purpose of the maximum rate is to place an upper limit on dividends with respect to the Series E Auction Rate Preferred and in so doing to help protect the earnings available to the holders of dividends on the common stock and the other series of preferred stock, and to serve as the dividend rate in the event of a failed auction (that is, an auction where there are more orders of Series E Auction Rate Preferred offered for sale than there are buyers for those shares).

If broker-dealers submit or are deemed to submit orders for all outstanding Series E Auction Rate Preferred, the auction will be considered an "all hold" auction and the dividend rate for the next dividend period will be the "all hold rate," which is the rate of the "AA" Financial Composite Commercial Paper Rate.

The auction procedures include a pro rata allocation of Series E Auction Rate Preferred shares for purchase and sale. This allocation process may result in an existing holder selling fewer shares than a potential holder buying, fewer shares than the number of Series E Auction Rate Preferred shares in its order. If this happens, broker-dealers that have designated themselves as existing holders or potential holders in respect of customer orders will be required to make appropriate pro rata allocations among their respective customers.

Settlement of purchases and sales will be made on the next business day (which also is a dividend payment date) after the auction date through DTC. Purchasers will pay for their purchases of Series E Auction Rate Preferred through broker-dealers in same-day funds to DTC against delivery to the broker-dealers. DTC will make payment to the sellers' broker-dealers in accordance with normal procedures, which require broker-dealers to make payments against delivery in same-day funds. As used in this prospectus, a business day is a day on which the NYSE is open for trading and which is not a Saturday, Sunday or any other day on which the banks in New York City are authorized or obligated by law to close.

The first auction for Series E Auction Rate Preferred will be held on [___], 2003, the business day preceding the dividend payment date for the initial dividend period. Thereafter, during special dividend periods, auctions for Series E Auction Rate Preferred normally will be held every Thursday (or the preceding business day if Thursday is a holiday), and each subsequent dividend period for the Series E Auction Rate Preferred normally will begin on the following Friday.

If an auction is not held because an unforeseen event or other unforeseen events cause a day that otherwise would have been the auction date not to be a business day,

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then the length of the then-current dividend period will be extended by seven days (or a multiple thereof if necessary because of such unforeseen event or events), the applicable rate for such period will be the applicable rate for the then-current dividend period so that the dividend payment date for such dividend period will be the first business day immediately succeeding the end of the dividend period. See "The Auction of Series E Auction Rate Preferred

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Tax Treatment of Preferred

Stock Dividends..... The Fund expects that dividends paid on the Series D Preferred and Series E Auction Rate Preferred will consist of (i) long-term capital gain (gain from the sale of a capital asset held longer than 12 months), (ii) qualified dividend income (income from domestic and certain foreign corporations), and (iii) investment company taxable income (other than qualified dividend income), including interest income, short-term capital gain and income from certain hedging and interest rate transactions. For individuals, the maximum federal income tax rate on long-term capital gain is currently 15%, on qualified dividend income is 15% and on other types of income is 35%. These tax rates are scheduled to apply through 2008. Over the past three years approximately 89% of the Fund's distributions to stockholders consisted of long-term capital gain and, of the remaining 11% distributed to stockholders, 68% would have, under the current tax provisions, constituted qualified dividend income taxable at the 15% rate. Over the last one year, approximately 93% of the Fund's distributions to stockholders consisted of long-term capital gain and, of the remaining 7% distributed to stockholders, approximately 99% would have, under the current tax provisions, constituted qualified dividend income taxable at the 15% rate. We cannot assure you, however, as to what percentage of the dividends paid on Series D Preferred or Series E Auction Rate Preferred will consist of long-term capital gains and qualified dividend income, which are taxed at lower rates for individuals than ordinary income. For a more detailed discussion, see "Taxation."

Rating and Asset

Coverage Requirements..... Series D Preferred. Before it can be issued, the Series D Preferred must receive a rating of "Aaa" from Moody's. The Fund's Supplementary setting forth the rights and preferences of Series D Preferred contain certain tests that the Fund must satisfy to maintain a rating of "Aaa" from Moody's on the Series D Preferred. See "Description of the Series D Preferred and Series E Auction Rate Preferred-- Rating Agency Guidelines."

Series E Auction Rate Preferred. Before it can be issued, the Series E Auction Rate Preferred must receive both a rating of "Aaa" from Moody's and a rating of "AAA" from S&P. As with the Series D Preferred, the Articles Supplementary of the Fund setting forth the rights and preferences of the Series E Auction Rate Preferred contain certain tests that the Fund must satisfy to obtain and maintain a rating of "Aaa" from Moody's and "AAA" from S&P. See "Description of the Series D Preferred and Series E Auction Rate Preferred-- Rating Agency Guidelines."

Asset Coverage Requirements. Under the asset coverage requirements applicable to each of the Series D Preferred and/or Series E Auction Rate Preferred, is subject, the Fund is required to maintain (i) assets with a net aggregate a discounted value greater than or equal to a certain percentage of the Maintenance Amount (as defined under "Description of the Series D Preferred and Series E Auction Rate Preferred -- Rating Agency Guidelines") for each such series calculated pursuant to

rating agency guidelines and (ii) an asset coverage of a (or such higher or lower percentage as may be required a under the Investment Company Act of 1940, as amended (th Act")) with respect to all outstanding preferred stock o including the Series D Preferred and the Series E Auction Preferred. See "Description of the Series D Preferred an Auction Rate Preferred -- Asset Maintenance Requirements

The Fund estimates that if the shares offered hereby had and sold as of September 15, 2003, the asset coverage un Act would have been approximately 327% immediately follo issuance (after giving effect to the deduction of the un discounts and estimated offering expenses for such share \$3,352,500). The asset coverage would have been computed

value of Fund assets less liabilities not constituting s securities (\$1,374,744,505) / senior securities represen indebtedness plus liquidation preference of each class o stock (\$420,000,000), expressed as a percentage = 327%.

The Articles Supplementary for each of the Series D Pref Series E Auction Rate Preferred, which contain the techn sions of the various components of the asset coverage te been filed asexhibits to this registration statement an obtained through the web site of the Securities and Exch (the "SEC") (<http://www.sec.gov>).

Mandatory Redemption..... The Series D Preferred and the Series E Auction Rate Pre subject to mandatory redemption by the Fund to the exten fails to maintain the asset coverage requirements in acc the rating agency guidelines or the 1940 Act described a not cure such failure by the applicable cure date. If t preferred stock mandatorily, it may, but is not required sufficient number of shares of preferred stock so that a redemption the Fund exceeds the asset coverage required guidelines of each of the applicable rating agencies and by 10%.

With respect to the Series D Preferred, any such redempt made for cash at a redemption price equal to \$25 per sha accumulated and unpaid dividends (whether or not earned to the redemption date.

With respect to the Series E Auction Rate Preferred, any redemption will be made for cash at a redemption price e \$25,000 per share plus an amount equal to accumulated bu dividends (whether or not earned or declared) to the red plus, in the case of Series E Auction Rate Preferred hav period of more than one year, any applicable redemption determined by the Board of Directors. See "Description o

D Preferred and Series E Auction Rate Preferred -- Manda Redemption."

In the event of a mandatory redemption, such redemption from the Series D Preferred, the Series E Auction Rate P other preferred stock of the Fund in such proportions as determine, subject to the limitations of the 1940 Act an

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law.

Optional Redemption..... Subject to the limitations of the 1940 Act and Maryland law, at its option, redeem the Series D Preferred and/or the Series E Auction Rate Preferred as follows:

Series D Preferred. Commencing [__], 2008 and at any time thereafter, the Fund at its option may redeem the Series D Preferred in part, for cash at a redemption price per share equal to the redemption price plus accumulated and unpaid dividends (whether or not earned to the redemption date. If fewer than all of the shares of Series D Preferred are to be redeemed, any such redemption of Series D Preferred shares will be made pro rata in accordance with the number of such shares held. Prior to [__], 2008 the Series D Preferred shares will be subject to optional redemption by the Fund at the discretion of the Fund only to the extent necessary for the Fund to continue to qualify for tax treatment as a regulated investment company. See "Description of the Series D Preferred and Series E Auction Rate Preferred -- Redemption -- Optional Redemption of the Series D Preferred."

Series E Auction Rate Preferred. The Fund at its option may redeem Series E Auction Rate Preferred, in whole or in part, at any time other than during a non-call period. The Fund may redeem Series E Auction Rate Preferred during a dividend period of more than seven days. If fewer than all of the shares of the Series E Auction Rate Preferred are to be redeemed, any such redemption of Series E Auction Rate Preferred shares will be made pro rata in accordance with the number of such shares held. See "Description of the Series D Preferred and Series E Auction Rate Preferred -- Redemption -- Optional Redemption of the Series E Auction Rate Preferred."

The redemption price per Series E Auction Rate Preferred share will be equal to \$25,000 plus an amount equal to any accumulated and unpaid dividends thereon (whether or not earned or declared) to the redemption date, plus, in the case of Series E Auction Rate Preferred having a dividend period of more than one year, any redemption premium applicable during such dividend period. See "Description of the Series D Preferred and Series E Auction Rate Preferred -- Redemption -- Optional Redemption of the Series E Auction Rate Preferred."

The Fund redeemed 100% of its outstanding Series A Preferred shares on June 17, 2003. The Fund's outstanding Series B Preferred is redeemable at the option of the Fund beginning June 20, 2006. The Fund may redeem the outstanding Series C Auction Rate Preferred shares at any time.

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Preferred, in whole or in part, at any time other than during a non-call period. Such redemptions are subject to the limitations of the 1940 Act and Maryland law. See "Description of the Series D Preferred and Series E Auction Rate Preferred -- Redemption -- Optional Redemption of the Series E Auction Rate Preferred."

Voting Rights..... At all times, holders of the Fund's outstanding preferred stock (including the Series D Preferred and/or Series E Auction Rate Preferred), voting as a single class, will be entitled to elect members of the Fund's Board of Directors, and holders of the Fund's common stock, voting as a single class, will be entitled to elect the remaining directors. However, upon a failure to pay dividends on any of its preferred stock in an amount

full years dividends, holders of the preferred stock, of a single class, will have the right to elect additional directors. Holders of the preferred stock would then constitute a simple majority of the directors. Holders of the preferred stock have the right to elect additional directors on all shares of preferred stock held by them or provided for. Holders of outstanding shares of Series E Auction Rate Preferred and any other preferred stock will vote separately as a class on certain other matters, as provided under the Charter (including the applicable Articles Supplementary to the Charter) and the laws of the State of Maryland, including the 1940 Act and Maryland law. Except as otherwise indicated in this prospectus and as otherwise required by applicable law, Series D Preferred and/or Series E Auction Rate Preferred will be entitled to one vote per share on each matter submitted to a vote by the stockholders and will vote together with the holders of the Series D Preferred and Series E Auction Rate Preferred and any other preferred stock as a single class. See "Description of the Series D Preferred and Series E Auction Rate Preferred-- Liquidation Rights."

Liquidation Preference..... The liquidation preference of the Series D Preferred is \$25,000 per share. The liquidation preference of the Series E Auction Rate Preferred is \$25,000 per share. Upon liquidation, holders of preferred stock are entitled to receive the liquidation preference with respect to such shares (whether or not dividends with respect to such shares (whether or not declared) to the date of distribution. See "Description of the Series D Preferred and Series E Auction Rate Preferred-- Liquidation Rights."

Use of Proceeds..... The Fund will use the net proceeds from the offering to purchase additional portfolio securities in accordance with its investment objectives and policies. See "Use of Proceeds."

Listing of the Series D Preferred..... Prior to its being offered, there has been no public market for the Series D Preferred. Following its issuance (if issued), the Series D Preferred is expected to be listed on the NYSE. However, there is no assurance that the Series D Preferred will be listed on the NYSE during its initial period which is not expected to exceed 30 days after its initial issuance, the Series D Preferred will not be listed on any securities exchange and, consequently, may be illiquid during that period.

Limitation on Secondary Market Trading of the Series E Auction Rate Preferred..... The Series E Auction Rate Preferred will not be listed on any securities exchange. Broker-dealers may, but are not obliged to, make a secondary trading market in Series E Auction Rate Preferred outside of auctions. There can be no assurance that a secondary market will provide owners with liquidity. You may transfer Series E Auction Rate Preferred outside of auctions only to or through a broker-dealer who has entered into an agreement with the auction agent and other persons as the Fund permits.

Special Characteristics and Risks..... Risk is inherent in all investing. Therefore, before investing in the Series D Preferred or Series E Auction Rate Preferred you should carefully read the risks described in this prospectus.

Series D Preferred. Primary risks specially associated with investment in the Series D Preferred include:

The market price for the Series D Preferred will be influenced by changes in interest rates, the perceived credit quality of the Series D Preferred and other factors.

During an initial period which is not expected to exceed 90 days after the date of its issuance, the Series D Preferred will not be listed on any securities exchange. During such period, the underwriters intend to make a market in the Series D Preferred, however, they have no obligation to do so. Consequently, the Series D Preferred may be illiquid during such period. No assurance is provided that listing on any securities exchange or market will result in the market for Series D Preferred being liquid at any time.

Series E Auction Rate Preferred. Primary risks associated with an investment in Series E Auction Rate Preferred include:

If an auction fails, you may not be able to sell some or all of your Series E Auction Rate Preferred. The Fund is not obligated to make a market in your Series E Auction Rate Preferred if an auction fails. The underwriters are not required to make a market in the Series E Auction Rate Preferred. No broker-dealer is obligated to create a secondary market for the Series E Auction Rate Preferred during the auctions.

You may receive less than the price you paid for your Series E Auction Rate Preferred if you sell them outside of the auction, especially when market interest rates are rising.

Both the Series D Preferred and Series E Auction Rate Preferred investment in either the Series D Preferred or Series E Auction Rate Preferred also includes the following primary risks:

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You will have no right to require the Fund to repurchase your shares of Series D Preferred or Series E Auction Rate Preferred at any time.

A rating agency could downgrade or withdraw the rating assigned to the Series D Preferred and/or Series E Auction Rate Preferred, which would likely have an adverse effect on the liquidity and value of these preferred shares. The present credit rating does not eliminate or mitigate the risks of investing in these preferred shares.

In general, the Fund may redeem your Series E Auction Rate Preferred at any time and may redeem your Series D Preferred at any time on or after [___], 2008, and may at any time redeem shares of either series to meet regulatory or rating agency requirements. Upon redemption, you may not be able to reinvest your proceeds in shares that is the same or higher than the Series D Preferred or Series E Auction Rate Preferred. Subject to such redemptions, the Series D Preferred and Series E Auction Rate Preferred shares are perpetual.

The Fund may not meet the asset coverage requirements or generate sufficient income from its investments to pay dividends to the Series D Preferred and/or Series E Auction Rate Preferred.

The Series D Preferred and/or Series E Auction Rate Preferred

obligations of the Fund. Although unlikely, precipitous the value of the Fund's assets could result in the Fund insufficient assets to redeem all of the Series D Preferred Series E Auction Rate Preferred for the full redemption

The value of the Fund's investment portfolio may decline the asset coverage for the Series D Preferred and/or Series E Auction Rate Preferred. Further, if an issuer of a common stock in which the Fund invests experiences financial difficulties or if an issuer of preferred stock or debt security is downgraded or defaulted, or if an issuer in which the Fund invests is affected by other adverse factors, there may be a negative impact on the income and the value of the Fund's investment portfolio.

As a non-diversified investment company under the 1940 Act, the Fund is not limited in the proportion of its assets that may be invested in securities of a single issuer, and accordingly, an investment in the Fund may, under certain circumstances, present greater risk to an investor than an investment in a diversified company. See "Risk Factors and Special Considerations -- Non-Diversified Stocks."

The Fund may invest up to 10% of its total assets in fixed income securities rated in the lower rating categories of recognized statistical rating agencies, also sometimes referred to as "junk bonds." Such securities are subject to greater risks than higher grade securities, which reflect their speculative character. These risks include: (i) greater volatility; (ii) greater credit risk; (iii) greater sensitivity to general economic or industry conditions; and (iv) potential lack of attractive resale

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opportunities (illiquidity); and (v) additional expenses incurred from issuers who default. See "Risk Factors and Special Considerations-- Lower Rated Securities."

The Fund may invest up to 35% of its total assets in foreign securities. Investing in securities of foreign companies (including governments), which are generally denominated in foreign currencies, may involve certain risks and opportunities not typically associated with investing in domestic companies and could cause the value of the Fund to be affected favorably or unfavorably by changes in currency exchange rates and revaluation of currencies. See "Risk Factors and Special Considerations -- Foreign Securities."

The Fund's leveraged capital structure creates special risks not associated with unleveraged funds having similar investment objectives and policies. These include, among others, the risk of greater loss and the likelihood of higher volatility in the asset value of the Fund and the asset coverage for the Series D Preferred and/or Series E Auction Rate Preferred. Such volatility may increase the likelihood of the Fund having to sell investments in order to meet dividend payments on the preferred stock, which may be disadvantageous to do so. See "Risk Factors and Special Considerations -- Leverage Risk."

The Fund has entered into an interest rate swap transaction with respect to its outstanding Series C Auction Rate Preferred. The Fund may enter into an interest rate swap or cap transaction with respect to all or a portion of the Series E Auction Rate Preferred. The use of interest rate swaps and caps is a highly specialized activity

involves certain risks to the Fund including, among other things, counterparty risk and early termination risk. See "How the Fund Manages Risk -- Interest Rate Transactions."

The Investment Adviser is dependent upon the expertise of Mr. J. Gabelli in providing advisory services with respect to the Fund's investments. If the Investment Adviser were to lose the services of Mr. Gabelli, its ability to service the Fund could be adversely affected. There can be no assurance that a suitable replacement could be found for Mr. Gabelli in the event of his death, resignation, retirement or inability to act on behalf of the Investment Adviser. See "Risk Factors and Special Considerations -- Dependence on Key Personnel."

The Fund has qualified, and intends to remain qualified, for income tax purposes as a regulated investment company. Section 854(b) requires, among other things, compliance by the Fund with certain distribution requirements. Statutory limitations on distributions of the common stock if the Fund fails to satisfy the 1940 Act's asset coverage requirements could jeopardize the Fund's ability to meet its distribution requirements. The Fund presently intends, however, to purchase or redeem preferred stock to the extent necessary to maintain compliance with such asset coverage requirements.

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"Taxation" for a more complete discussion of these and other income tax considerations.

Management and Fees..... Gabelli Funds, LLC serves as the Fund's investment adviser (the "Investment Adviser") and is compensated for its services and related expenses at an annual rate of 1.00% of the Fund's weekly net assets. The Investment Adviser is responsible for the administration of the Fund and currently utilizes and pays to a third party sub-administrator. Notwithstanding the foregoing, the Investment Adviser has voluntarily agreed to waive the portion of its investment advisory fee attributable to an amount of assets under management equal to the aggregate stated value of the Fund's outstanding Series D Preferred or Series E Auction Rate Preferred, as the case may be, in any calendar year in which the net asset value total return attributable to the common stock, including distributions and reinvestments, is less than (i) in the case of the Series D Preferred, the stated annual dividend rate of such series; or (ii) in the case of the Series E Auction Rate Preferred, the net asset value total return to the Fund with respect to the Series E Auction Rate Preferred for such year expressed as a percentage (including, without limitation, dividends paid by the Fund on the Series E Auction Rate Preferred) minus the net cost to the Fund of any associated swap or cap transaction. The Fund hedges its Series E Auction Rate Preferred dividend payments. This waiver will apply to the portion of the Fund's assets attributable to the Series D Preferred and Series E Auction Rate Preferred, respectively, for so long as any shares of such series remain outstanding. See "Management of the Fund."

Repurchase of Stock..... The Fund may repurchase Series D Preferred or, outside of the Fund's Board of Directors in compliance with the requirements of applicable law and regulations thereunder and other applicable requirements, Series E Auction Rate Preferred when it is deemed advisable. The Fund will not repurchase Series E Auction Rate Preferred at a price other than the price set forth in the Prospectus will serve as notice that the Fund may from time to time

repurchase Series D Preferred when such shares are traded in the open market at a discount of 10% or more from net asset value. See "Description of Capital Structure -- Series D Preferred and Series E Auction Rate Preferred" and "Description of Capital Structure -- Series D Preferred and Series E Auction Rate Preferred."

The Fund's Board of Directors has authorized the Fund to repurchase common stock in the open market when the common stock is trading at a discount of 10% or more from net asset value. Such repurchases are subject to the Fund maintaining asset coverage on its portfolio and to certain notice and other requirements, including those set forth in Rule 23c-1 under the 1940 Act. See "Description of Capital Structure -- Other Securities -- Common Stock." Through September 15, 2011, the Fund has repurchased in the open market zero shares of its common stock under this authorization. See "Description of Capital Structure -- Other Securities -- Common Stock."

Anti-takeover Provisions..... Certain provisions of the Fund's charter (the "Charter") and by-laws (the "By-Laws") may be regarded as "anti-takeover provisions." Pursuant to these provisions, only one of three classes of directors is elected each year. In addition, the affirmative vote of 66 2/3% of each class of the Fund's outstanding voting securities, voting as a separate class, is necessary to authorize the Fund to convert from a closed-end to an open-end investment company. The Fund may also authorize certain transactions between the Fund and a business entity if more than 5% of any class of the Fund's capital stock is owned by a majority (as defined in the 1940 Act) of the holders of that class of outstanding voting securities, voting as a single class, and the vote is necessary to authorize the conversion of the Fund from a closed-end to an open-end investment company. The overall effect of these provisions is to render more difficult the accomplishment of a merger or acquisition of control by, a principal stockholder. These provisions have the effect of depriving Fund stockholders of an opportunity to sell their stock at a premium to the prevailing market price. "Anti-takeover Provisions of the Charter and By-Laws."

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Custodian, Transfer Agent, Auction Agent and Dividend Disbursing Agent..... State Street Bank and Trust Company (the "Custodian"), 100 State Street, Canton, MA 02021, serves as the custodian of the Fund's assets pursuant to a custody agreement. Under the custody agreement, the Custodian holds the Fund's assets in compliance with the requirements of the Uniform Gifts to Minors Act (UGMA) and the Uniform Transfers to Minors Act (UTMA). For its services, the Custodian will receive a monthly fee of \$10,000, plus, among other things, the average value of the total assets held by the Fund plus certain charges for securities transactions.

EquiServe Trust Company, N.A., located at P.O. Box 43025, Providence, RI 02940-3025, serves as the Fund's dividend disbursing agent under the Fund's automatic dividend reinvestment plan, as cash purchase plan, and as transfer agent and registrar for the common stock of the Fund.

Series D Preferred. EquiServe will also serve as the transfer agent, registrar, dividend paying agent and redemption agent with respect to the Series D Preferred. EquiServe currently serves in such capacity with respect to the Series B Preferred.

Series E Auction Rate Preferred. The Bank of New York Mellon serves as the auction agent, transfer agent, registrar, dividend paying agent and

and redemption agent with respect to the Series E Auction Rate Preferred. The Bank of New York currently serves in such capacity with respect to the Series C Auction Rate Preferred.

Interest Rate Transactions The Fund has entered into an interest rate swap transaction with respect to its outstanding Series C Auction Rate Preferred. The Fund may enter into interest rate swap or cap transactions in relation to all or a portion of the Series E Auction Rate Preferred in order to manage the impact on its portfolio of changes in the dividend rate on the Series E Auction Rate Preferred. Through these transactions, the Fund may, for example, obtain the equivalent of a fixed rate on the Series E Auction Rate Preferred stock that is lower than the Fund would have to pay if it issued fixed rate preferred stock. The use of interest rate swaps and caps is a highly specialized activity that involves investment techniques and risks different from those associated with ordinary portfolio security transactions.

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In an interest rate swap, the Fund would agree to pay to the counterparty to the interest rate swap (which is known as the "counterparty") periodically a fixed rate payment in exchange for the counterparty agreeing to pay to the Fund periodically a variable rate payment that is intended to approximate the Fund's variable rate payment obligation on the auction rate preferred stock. In an interest rate cap, the Fund would pay a premium to the counterparty to the interest rate cap and, to the extent that a specified interest rate index exceeds a predetermined fixed rate, the Fund would receive from the counterparty payments of the difference based on a notional amount of such cap.

Interest rate swap and cap transactions introduce additional risks to the Fund because the Fund would remain obligated to pay preferred dividends when due in accordance with the Articles Supplementary to the Charter if the counterparty defaulted. Depending on the general level of short-term interest rates and the returns on the Fund's assets, such a default could affect the Fund's ability to make dividend payments on the Series C Auction Rate Preferred and Series E Auction Rate Preferred. In addition, when an interest rate swap or cap transaction reaches its termination date, there is a risk that the Fund will not be able to obtain a replacement transaction or that the terms of the replacement transaction will not be as favorable as on the expiring transaction. If a default occurs, it could have a negative impact on the Fund's ability to make dividend payments on the Series D Preferred and Series E Auction Rate Preferred.

A sudden and dramatic decline in interest rates may result in a significant decline in the asset coverage. If the Fund is unable to maintain the required asset coverage on its outstanding Series C Auction Rate Preferred stock or fails to comply with other covenants, the Fund may be required to redeem the Series C Auction Rate Preferred stock (and in certain circumstances will be required to do so consistent with its Charter and the requirements of the Articles Supplementary to the Charter) or the Series E Auction Rate Preferred stock (including the Series D Preferred or the Series E Auction Rate Preferred). Such redemption likely would result in the Fund seeking to terminate early all or a portion of any swap or cap transaction. Early termination of a swap could require the Fund to make a termination payment to the counterparty.

The Fund intends to segregate cash or liquid securities value at least equal to the value of the Fund's net payment obligations under any swap transaction, marked to market. The Fund does not presently intend to enter into interest rate swap transactions relating to the Series E Auction Rate Preferred amount in excess of the outstanding amount of the Auction Rate Preferred. The Fund will monitor any such swap transaction with a view to ensuring that the Fund remains in compliance with all applicable regulatory investment policy requirements. See "How the Fund Manages Risk -- Interest Rate Swap Transactions" for additional information.

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Use of Leverage.....As provided in the 1940 Act, and subject to compliance with investment limitations, the Fund may issue senior securities representing stock, such as preferred stock, so long as following such issuance the stock will have an asset coverage. The use of leverage magnifies the impact of changes in net asset value. In addition, if the cost of leverage exceeds the return on the securities acquired with the proceeds of leverage, the use of leverage will diminish rather than enhance the return to the Fund. See "Objectives and Policies-- Special Investment Methods --

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FINANCIAL HIGHLIGHTS

The selected data below sets forth the per share operating performance and ratios for the periods presented. The financial information was derived from and should be read in conjunction with the Financial Statements of the Fund and Notes thereto, which are incorporated by reference into this prospectus and the SAI. The financial information for the year ending December 31, 2002, and for each of the preceding nine years has been audited by PricewaterhouseCoopers LLP, the Fund's independent accountants, whose unqualified report on such Financial Statements is incorporated by reference into the SAI.

Selected data for a Fund common share outstanding throughout each period:

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	Six Months Ended June 30, 2003 (unaudited)	2002 (a)	Year Ended December 2001 (a)	2000 (a)
	-----	-----	-----	-----
PER COMMON SHARE OPERATING PERFORMANCE:				
Net asset value, beginning of period.....	\$ 6.28	\$ 8.97	\$ 10.89	\$ 12.00
	-----	-----	-----	-----

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Net investment income.....	0.03	0.06	0.08	0
Net realized and unrealized gain (loss) on investments.....	0.95	(1.64)	(0.16)	(0)
	-----	-----	-----	-----
Total from investment operations.....	0.98	(1.58)	(0.08)	(0)
	-----	-----	-----	-----
DISTRIBUTIONS TO PREFERRED STOCK SHAREHOLDERS:				
Net investment income.....	(0.09)	(0.01)	(0.01)	(0)
Net realized gain on investments.....	---	(0.16)	(0.11)	(0)
	-----	-----	-----	-----
Total distributions to preferred stock shareholders	(0.09)	(0.17)	(0.12)	(0)
	-----	-----	-----	-----
NET INCREASE (DECREASE) IN NET ASSETS ATTRIBUTABLE TO COMMON STOCK SHAREHOLDER'S RESULTING FROM OPERATIONS				
	0.89	(1.75)	(0.20)	(0)
	-----	-----	-----	-----
DISTRIBUTIONS TO COMMON STOCK SHAREHOLDERS:				
Net investment income.....	(0.40)	(0.05)	(0.06)	(0)
Net realized gain on investments.....	---	(0.90)	(1.02)	(1)
Paid-in capital.....	---	(0.00) (c)	--	
	-----	-----	-----	-----
Total distributions to common stock shareholders..	(0.40)	(0.95)	(1.08)	(1)
	-----	-----	-----	-----
CAPITAL SHARE TRANSACTIONS:				
Increase in net asset value from common stock share transactions.....	0.01	0.02	0.03	
Decrease in net asset value from shares issued in rights offering.....	--	--	(0.62)	
Offering costs for preferred shares charged to paid-in capital	(0.00) (c)	(0.01)	(0.05)	
	-----	-----	-----	-----
Total capital share transactions.....	0.01	0.01	(0.64)	
	-----	-----	-----	-----
NET ASSET VALUE ATTRIBUTABLE TO COMMON STOCK SHAREHOLDERS, END OF PERIOD.....				
	\$ 6.75	\$ 6.28	\$ 8.97	\$ 10
	=====	=====	=====	=====
Net asset value total return+.....	14.50%	(21.00)%	(3.68)%	(4)
	=====	=====	=====	=====
Market value, end of period.....	\$ 7.47	\$ 6.85	\$ 10.79	\$ 11
	=====	=====	=====	=====
Total investment return++.....	15.65%	(28.36)%	10.32%	1
	=====	=====	=====	=====
RATIOS AND SUPPLEMENTAL DATA:				
Net assets including liquidation value of preferred shares, end of period (in 000's).....	\$1,216,575	\$1,271,600	\$1,465,369	\$1,318
Net assets attributable to common stock, end of period (in 000's).....	\$ 921,575	\$ 842,403	\$1,166,171	\$1,184
Ratio of net investment income to average net assets attributable to common stock.....	0.73% (k)	0.81%	0.81%	0.
Ratio of operating expenses to average net assets attributable to common stock (e) (g).....	1.86% (k)	1.37%	1.12%	1.
Ratio of operating expenses to average total net assets including liquidation value of preferred shares (e) (g)	1.26% (k)	1.00%	0.95%	1.
Portfolio turnover rate.....	2.2%	27.1%	23.9%	3
PREFERRED STOCK:				
7.25% CUMULATIVE PREFERRED STOCK				
Liquidation value, end of period (in 000's).....	\$ --	\$134,198	\$134,198	\$134,
Total shares outstanding (in 000's).....	--	5,368	5,368	5,
Liquidation preference per share.....	\$ --	\$ 25.00	\$ 25.00	\$ 25
Average market value (d).....	\$ --	\$ 25.75	\$ 25.39	\$ 22
7.20% CUMULATIVE PREFERRED STOCK				

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Liquidation value, end of period (in 000's).....	\$ 165,000	\$165,000	\$165,000	
Total shares outstanding (in 000's).....	6,600	6,600	6,600	
Liquidation preference per share.....	\$ 25.00	\$ 25.00	\$ 25.00	
Average market value (d).....	\$ 27.12	\$ 26.40	\$ 25.60	
AUCTION RATE CUMULATIVE PREFERRED STOCK				
Liquidation value, end of period (in 000's).....	\$ 130,000	\$130,000		--
Total shares outstanding (in 000's).....	5	5		--
Liquidation preference per share.....	\$ 25,000	\$ 25,000		--
Average market value (d).....	\$ 25,000	\$ 25,000		--
ASSET COVERAGE (f).....	412%	296%	490%	9
ASSET COVERAGE PER SHARE (f).....	\$ 184.18	\$ 106.20	\$ 122.44	\$ 245

21

	1997 (a)	1996 (a)	1995 (a)	1994
PER COMMON SHARE OPERATING PERFORMANCE:				
Net asset value, beginning of period.....	\$ 9.77	\$ 9.95	\$ 9.46	\$ 11
Net investment income.....	0.08	0.11	0.13	0
Net realized and unrealized gain (loss) on investments	2.75	0.71	1.74	(0)
Total from investment operations.....	2.83	0.82	1.87	0
DISTRIBUTIONS TO COMMON STOCK SHAREHOLDERS:				
Net investment income.....	(0.08)	(0.11)	(0.13)	(0)
In excess of net investment income.....	(0.00) (d)	--	--	
Net realized gain on investments	(0.93)	(0.78)	(0.47)	(0)
In excess of net realized gain on investments.....	--	(0.00) (c)	(0.02)	
Paid-in capital.....	(0.03)	(0.11)	(0.38)	(1)
CAPITAL SHARE TRANSACTIONS:				
Increase (decrease) in net asset value from Fund share transactions.....	--	--	(0.37)	
Decrease in net asset value from shares issued in rights offering.....	--	--	--	
Offering expenses charged to capital surplus.....	--	--	(0.01)	
TOTAL DISTRIBUTIONS.....	(1.04)	(1.00)	(1.00)	(1)
NET ASSET VALUE, END OF PERIOD.....	\$ 11.56	\$ 9.77	\$ 9.95	\$ 9
Market value, end of period.....	\$ 11.69	\$ 9.38	\$ 9.375	\$ 9.
Net asset value total return +.....	30.46%	9.00%	20.60%	0
Total investment return ++.....	37.46%	11.00%	11.70%	(5.
RATIOS TO AVERAGE NET ASSETS AVAILABLE TO COMMON STOCK SHAREHOLDERS AND SUPPLEMENTAL DATA:				
Net assets, end of period (in 000's)	\$1,210,570	\$1,015,437	\$1,034,091	\$ 825,
Net assets attributable to common stock, end of period (in 000's).....	1,210,570	1,015,437	1,034,091	825,
Ratio of net investment income to average net asse attributable to common stock.....ts	0.76%	1.07%	1.26%	1
Ratio of operating expenses to average total net assets(i).....	1.14%	1.18%	1.21%	1
Portfolio turnover rate.....	39.2%	18.9%	25.1%	2

+ Based on net asset value per share, adjusted for reinvestment of distributions, including the effect of shares issued pursuant to rights offering, assuming full subscription by stockholder. Total return for the period less than one year is not annualized.

++ Based on market value per share, adjusted for reinvestment of

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distributions, including the effect of shares issued pursuant to rights offering, assuming full subscription by stockholder. Total return for the period less than one year is not annualized.

- (a) Per share amounts have been calculated using the monthly average shares outstanding method.
- (b) A distribution equivalent to \$0.75 per share for The Gabelli Utility Trust spin-off from net investment income, realized short-term gains, realized long-term gains, and paid-in-capital were \$0.01029, \$0.07453, \$0.34218 and \$0.32300, respectively.
- (c) Amount represents less than \$0.005 per share. (d) Based on weekly prices.
- (e) The ratios do not include a reduction of expenses for custodian fee credits on cash balances maintained with the custodian. Including such custodian fee credits for the years ended December 31, 2002, 2001 and 2000, the expense ratios of operating expenses to average net assets attributable to common stock would be 1.37%, 1.11% and 1.14%, respectively, and the expense ratios of operating expenses to average total net assets including liquidation value of preferred shares would be 1.00%, 0.94% and 1.03%, respectively.
- (f) Asset coverage is calculated by combining all series of preferred stock.
- (g) The Fund incurred interest expense during the six months ended June 30, 2000 and the year ended December 31, 2002. If interest expense had not been incurred, the expense ratio of operating expenses to average net assets attributable to common stock would be 1.37% and 1.19%, respectively, and the expense ratio of operating expenses to average total net assets including liquidation value of preferred shares would be 0.92% and 0.87% respectively.
- (h) Includes a distribution equivalent to \$0.75 per share for The Gatile. For eligible stock options 2003, 2004 and 2005, all named executive officers earned a payout of \$1.385, \$1.22 and \$0.83 per option, respectively.

(3)

Company contributions in 2005 to the Southern Company Employee Savings Plan (ESP), Employee Stock Ownership Plan (ESOP) and non-pension related accruals under the Southern Company Supplemental Benefit Plan (SBP) are provided in the following table:

Name

ESP

ESOP

SBP

Charles D. McCrary

\$
7,878

\$
773

\$
22,992

C. Alan Martin

8,839

773

10,227

Art P. Beattie

8,368

773

2,018

Steve R. Spencer

7,972

773

8,052

Jerry L. Stewart

9,450

773

6,466

In 2005, Messrs. McCrary, Beattie and Spencer received additional compensation of \$100,000, \$25,000 and \$75,000, respectively.

In 2004, Messrs. Spencer and Stewart received additional incentive compensation of \$75,000 and \$20,000, respectively.

In 2003, Messrs. Martin, Spencer and Stewart received additional incentive compensation of \$4,000, \$4,000 and \$35,000, respectively.

(4) Mr. Beattie was named an executive officer effective February 1, 2005.

Stock Option Grants in 2005

The following table sets forth all stock option grants to the named executive officers of the Company during the year ending December 31, 2005.

Name	Number of Securities Underlying Options Granted(1)	Percent of Total Options Granted to Employees in Fiscal Year(2)	Exercise or Base Price (\$/Sh)(1)	Expiration Date(1)	Grant Date Present Value(\$)(3)
Charles D. McCrary	86,454	7.3	32.70	2/18/2015	337,171
C. Alan Martin	39,418	3.3	32.70	2/18/2015	153,730
Art P. Beattie	21,558	1.8	32.70	2/18/2015	84,076
Steve R. Spencer	30,687	2.6	32.70	2/18/2015	119,679
Jerry L. Stewart	32,814	2.8	32.70	2/18/2015	127,975

(1) Under the terms of the Southern Company Omnibus Incentive Compensation Plan, stock option grants to the named executive officers were made on February 18, 2005 and vest annually at a rate of one-third on the anniversary date of the grant. Grants fully vest upon termination as a result of death, total disability, or retirement and expire five years after retirement, three years after death or total disability, or their normal expiration date if earlier. The exercise price is the average of the high and low price of Southern Company common stock on the date granted. Options may be transferred to a revocable trust and for Mr. McCrary, options may also be transferred to certain family members, family trusts and family limited partnerships.

(2) A total of 1,179,681 stock options were granted in 2005 to employees of the Company.

(3) Value was calculated using the Black-Scholes option valuation model. The actual value, if any, ultimately realized depends on the market value of Southern Company's common stock at a future date. Significant assumptions are shown below:

Volatility	Risk-free Rate of Return	Dividend Yield	Expected Term
17.9%	3.87%	4.38%	5 years

Aggregated Stock Option Exercises in 2005 and Year-End Option Values

The following table sets forth information concerning options exercised during the year ending December 31, 2005 by the named executive officers and the value of unexercised options held by them as of December 31, 2005.

Name	Shares Acquired on Exercise(#)	Value Realized (\$)(1)	Number of Securities Underlying Unexercised Options at Fiscal Year-End(#)		Value of Unexercised In-the-Money Options at Year-End\$(2)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
Charles D. McCrary	92,338	1,125,892	151,415	158,088	1,172,253	555,157
C. Alan Martin	78,831	713,096	40,853	79,762	247,539	296,089
Art P. Beattie	7,731	111,510	35,735	32,790	327,325	101,801
Steve R. Spencer	40,525	288,079	0	61,268	0	224,932
Jerry L. Stewart	22,341	328,025	79,730	64,423	702,201	234,487

- (1) The Value Realized is ordinary income, before taxes, and represents the amount equal to the excess of the fair market value of the shares at the time of exercise above the exercise price.
- (2) This column represents the excess of the fair market value of Southern Company common stock of \$34.53 per share, as of December 31, 2005, above the exercise price of the options. The Exercisable column reports the value of options that are vested and therefore could be exercised. The Unexercisable column reports the value of options that are not vested and therefore could not be exercised as of December 31, 2005.

Defined Benefit or Actuarial Plan Disclosure

The following table sets forth the estimated annual pension benefits payable at normal retirement age under Southern Company's qualified Pension Plan, as well as non-qualified supplemental benefits, based on the stated compensation and years of service with the Southern Company system for the named executive officers at the Company.

Compensation for pension purposes is limited to the average of the highest three of the final 10 years' compensation. Compensation is base salary plus the excess of annual incentive compensation over 15 percent of base salary. The compensation components are reported under columns titled "Salary" and "Bonus" in the Summary Compensation Table detailed earlier in this Information Statement.

The amounts shown in the table were calculated according to the final average pay formula and are based on a single life annuity without reduction for joint and survivor annuities or computation of the Social Security offset which would apply in most cases.

Years of Accredited Service

Remuneration	15	20	25	30	35	40
\$ 100,000	\$ 25,500	\$ 34,000	\$ 42,500	\$ 51,000	\$ 59,500	\$ 68,000
300,000	76,500	102,000	127,500	153,000	178,500	204,000
500,000	127,500	170,000	212,500	255,000	297,500	340,000
700,000	178,500	238,000	297,500	357,000	416,500	476,000
900,000	229,500	306,000	382,500	459,000	535,500	612,000
1,100,000	280,500	374,000	467,500	561,000	654,500	748,000
1,300,000	331,500	442,000	552,500	663,000	773,500	884,000
1,500,000	382,500	510,000	637,500	765,000	892,500	1,020,000

As of December 31, 2005, the applicable compensation levels and accredited service for determination of pension benefits would have been:

Name	Compensation	Accredited Years of Service
Charles D. McCrary	\$ 1,190,756	31
C. Alan Martin	645,938	33
Art P. Beattie	324,322	29
Steve R. Spencer	566,582	26
Jerry L. Stewart	560,632	32

STOCK OWNERSHIP TABLE

Southern Company is the beneficial owner of 100 percent of the outstanding common stock of the Company. The following table shows the number of shares of Southern Company common stock owned by directors, nominees and executive officers as of December 31, 2005. It is based on information furnished by the directors, nominees and executive officers. The shares owned by all directors, nominees and executive officers as a group constitute less than one percent of the total number of shares of Southern Company common stock outstanding on December 31, 2005.

Name of Directors, Nominees and Executive Officers	Title of Security	Shares Beneficially Owned(1)	Shares Beneficially Owned Include:
			Shares Individuals Have Rights to Acquire Within 60 Days(2)
Whit Armstrong	Southern Company Common Stock	16,951	
David J. Cooper, Sr.	Southern Company Common Stock	9,402	
R. Kent Henslee	Southern Company Common Stock	13,949	
John D. Johns	Southern Company Common Stock	2,818	
Carl E. Jones, Jr.	Southern Company Common Stock	17,432	
Patricia M. King	Southern Company Common Stock	3,704	
James K. Lowder	Southern Company Common Stock	13,107	
Wallace D. Malone, Jr.	Southern Company Common Stock	3,295	
Charles D. McCrary	Southern Company Common Stock	232,408	228,059
Malcolm Portera	Southern Company Common Stock	4,338	
Robert D. Powers	Southern Company Common Stock	4,265	
David M. Ratcliffe	Southern Company Common Stock	611,615	596,499
C. Dowd Ritter	Southern Company Common Stock	3,704	
James H. Sanford	Southern Company Common Stock	7,541	
John C. Webb, IV	Southern Company Common Stock	13,063	
James W. Wright	Southern Company Common Stock	5,286	

Art P. Beattie	Southern Company Common Stock	54,518	50,456
C. Alan Martin	Southern Company Common Stock	86,096	81,058
Steve R. Spencer	Southern Company Common Stock	33,016	30,422
Jerry L. Stewart	Southern Company Common Stock	118,839	111,536
Directors, Nominees and Executive Officers as a group (20 people)	Southern Company Common Stock	1,255,347	1,098,030

- (1) Beneficial ownership means the sole or shared power to vote, or to direct the voting of, a security, and/or investment power with respect to a security or any combination thereof.
- (2) Indicates shares of Southern Company's common stock that certain executive officers have the right to acquire within 60 days. Shares indicated are included in the Shares Beneficially Owned Column.

Section 16(a) Beneficial Ownership Reporting Compliance.

No reporting person of the Company failed to file, on a timely basis, the reports required by Section 16(a).

ARTICLES OF INCORPORATION

ITEM NO. 2 PROPOSED AMENDMENT

The board has approved, and recommends to the shareholders that they adopt, an amendment to the Company's Articles of Incorporation that would increase the Company's authorized common stock from 15,000,000 shares to 25,000,000 shares and create a new class of securities authorized to be issued by the Company to be called preference stock. If the amendment is adopted, Article IX of the Company's Articles of Incorporation will be amended and restated to read as set forth in Appendix C hereto.

Of the 15,000,000 currently authorized shares of common stock, 9,250,000 shares are outstanding. The additional shares of common stock for which authorization is sought would be a part of the existing class of common stock, and, if and when issued, would have the same rights and privileges as the shares of common stock presently outstanding or authorized to be issued.

The shares of preference stock for which authorization is sought will be a new class of capital stock of the Company and will rank junior to the rights and preferences of the Company's preferred stock and Class A preferred stock and senior to the rights and preferences of the Company's common stock. The proposal authorizes the Company to issue not in excess of 40,000,000 shares of preference stock. The shares of the preference stock may be divided into and issued in series. The board will establish the specific terms, rights, preferences, limitations and restrictions of each series of preference stock in an amendment to the Company's Articles of Incorporation with respect to such series. The Company expects to issue the common stock to Southern Company for cash in an offering exempt from registration under the Securities Act of 1933, as amended ("1933 Act"). The Company expects to issue the preference stock for cash in public offerings registered under the 1933 Act.

Purpose and Effect of Amendment

The board believes that an increase in the number of shares of authorized common stock as contemplated by the proposal would benefit the Company and its shareholders by giving the Company needed flexibility in its corporate planning and its ability to raise additional capital and respond to developments in the Company's business. The board has no present intention to authorize the issuance of any shares of common stock to any person other than Southern Company.

The board believes that the creation and authorization of preference stock as contemplated by the proposal would also benefit the Company and its shareholders by giving the Company needed flexibility in its ability to raise capital and respond to changes in the capital markets. Dividends on the Company's preferred stock and Class A preferred stock are cumulative. The terms of the preference stock permit the issuance of preference stock with non-cumulative dividends. The additional shares of common stock and the shares of preference stock will be issuable without further authorization by vote or consent of the shareholders of the Company and on such terms and for such consideration as may be determined by the board, subject to applicable law, and in such amounts as authorized by the Alabama Public Service Commission.

Vote Required

The proposed increase in the authorized number of shares of common stock requires the affirmative vote of the larger amount in total value of the common stock and all classes of preferred stock and Class A preferred stock voting as a single class. The proposed creation and authorization of the preference stock requires the affirmative vote of two-thirds of the total value of the common stock and all classes of preferred stock and Class A preferred stock voting as a single class.

For voting purposes, the total value of the preferred stock shall be equal to the par value of all shares of preferred stock outstanding, the total value of the Class A preferred stock shall be equal to the stated value of all shares of Class A preferred stock outstanding and the total value of the common stock shall be equal to the par value of all shares of common stock outstanding plus Paid-in capital. The total value of the outstanding preferred stock is \$47,511,500, the total value of the outstanding Class A preferred stock is \$425,000,000 and the total value of the outstanding common stock using Paid-in capital as of December 31, 2005 is \$2,365,056,000. Southern Company, as owner of all of the Company's common stock, will vote for the proposed amendment.

**Southern Company
Audit Committee Charter**

This Charter identifies the composition, purpose, authority, meeting requirements and responsibilities of the Southern Company (the Company) Audit Committee (the Committee) as approved by the Southern Company Board of Directors (the Board).

I. Composition

The Committee will be comprised of at least three independent members of the Board, each of whom will be financially literate. A deliberate effort will be made to include at least one Director who is a financial expert. The selection of Committee members will be in accordance with requirements for independence and financial literacy and expertise, as interpreted by the Board in its best business judgment, giving full consideration to the rules of the Securities and Exchange Commission (SEC) and the New York Stock Exchange.

II. Purpose

To assist the Board of Directors in fulfilling its oversight responsibilities for the following:

- A. Integrity of the financial reporting process;
- B. The system of internal control;
- C. The independence and performance of the internal and independent audit process;
- D. The Company's process for monitoring adherence with the spirit and intent of its Code of Ethics and compliance with laws and regulations; and
- E. Assistance to Executive Management and the Chief Executive Officer in setting an appropriate Tone at the Top that encourages the highest levels of ethical behavior and integrity in all matters.

III. Authority

The Audit Committee has authority to conduct or authorize investigations into any matters within its scope of responsibility. It is empowered to:

- A. Appoint, compensate, and oversee the work of the independent auditors.
- B. Resolve any disagreements between management and the independent auditors regarding financial reporting.
- C. Pre-approve all auditing and non-audit services provided by the independent auditors.
- D. Retain independent counsel, accountants, or others to advise the committee or assist in the conduct of an investigation.
- E. Seek any information it requires from employees—all of whom are directed to cooperate with the Committee's requests—or external parties.
- F. Meet with Company officers, independent auditors, internal auditors, inside counsel or outside counsel, as necessary.

In the execution of its duties, the Committee will report to the Board of Directors.

IV. Meeting Requirements

The Committee shall meet a minimum of four times each year, or more often if warranted, to receive reports and to discuss the quarterly and annual financial statements, including disclosures and other related information. The Committee shall meet separately, at least annually, with Company management, the Director of Internal Auditing, the Compliance Officer, and the independent auditors to discuss matters that the Committee or any of these

persons believe should be discussed privately. Meetings of the Committee may utilize conference call, Internet or other similar electronic communication technology.

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V. Responsibilities

- A. **Financial Reporting and Independent Audit Process** The oversight responsibility of the Committee in the area of financial reporting (including disclosure controls and procedures and internal control over financial reporting) is to provide reasonable assurance that the Company's financial disclosures and accounting practices accurately portray the financial condition, results of operations, cash flows, plans and long-term commitments of the Company on a consolidated basis, as well as on a separate company basis for each consolidated subsidiary that has publicly traded securities. To accomplish this, the Committee will:
1. Provide oversight of the independent audit process, including direct responsibility for:
 - a. Annual appointment of the independent auditors.
 - b. Compensation of the independent auditors.
 - c. Review and confirmation of the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the Company, including non-audit services, and discussing the relationships with the auditors. Ensure that non-audit services provided by the independent auditors comply with and are disclosed to investors in periodic reports required by the Securities Exchange Act of 1934 and the Sarbanes Oxley Act of 2002.
 - d. Review of the independent auditors' quarterly and annual work plans, and results of audit engagements.
 - e. Review of the experience and qualifications of the senior members of the independent audit team annually and ensure that all partner rotation requirements are executed.
 - f. Evaluation of the independent auditors' performance.
 - g. Oversight of the coordination of the independent auditors' activities with the Internal Auditing and Accounting functions.
 2. Review and discuss with management the quarterly and annual consolidated earnings announcements and earnings guidance provided to analysts and rating agencies.
 3. Review and discuss with management and the independent auditors the quarterly and annual financial reports and recommend those reports for filing with the SEC. The financial reports include the Southern Company consolidated financial reports as well as the separate financial reports for all consolidated subsidiaries with publicly traded securities.
 - a. The review and discussion will be based on timely reports from the independent auditors, including:
 - i. All critical accounting policies and practices to be used.
 - ii. All alternative treatments of financial information within generally accepted accounting principles that have been discussed with management; ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditors.
 - iii. Other material written communications between the independent auditors and management, such as any management letter or schedule of unadjusted differences.
 - b. In addition, the following items will also be reviewed and discussed:
 - i. Significant judgments and estimates made by management.
 - ii. Significant reporting or operational issues identified during the reporting period, including how they were resolved.

- iii. Issues on which management sought second accounting opinions.
 - iv. Significant regulatory changes and accounting and reporting developments proposed by Financial Accounting Standards Board, SEC, Public Company Accounting Oversight Board (PCAOB) or other regulatory agencies.
 - v. Any audit problems or difficulties and management's response.
4. Review the letter of management representations given to the independent auditors in connection with the audit of the annual financial statements.

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- B. Internal Control The responsibility of the Committee in the area of internal control, in addition to the actions described in *Section (V).(A.)*, is to:
1. Provide oversight of the internal audit function including:
 - a. Review of audit plans, budgets and staffing levels.
 - b. Review of audit results.
 - c. Review of management's appointment, appraisal of, and/or removal of the Company's Director of Internal Auditing. At least every two years, regardless of the performance of the incumbent, the President and Chief Executive Officer will review with the Committee the merits of reassigning the Director of Internal Auditing.
 2. Assess management's response to any financial reporting or compliance deficiencies.
 3. Provide oversight of the Company's Legal and Regulatory Compliance and Ethics Programs, including:
 - a. Creation and maintenance of procedures for:
 - i. Receipt, retention and treatment of complaints received by management regarding accounting, internal accounting controls or audit matters.
 - ii. Confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters.
 - b. Review of plans and activities of the Company's Corporate Compliance Officer.
 - c. Review of results of auditing or other monitoring programs designed to prevent or detect violations of laws or regulations.
 - d. Review of corporate policies relating to compliance with laws and regulations, ethics, conflict of interest and the investigation of misconduct or fraud.
 - e. Review of reported cases of employee fraud, conflict of interest, unethical or illegal conduct.
 4. Review the quality assurance practices of the internal auditing function and the independent auditors.
 5. Review and discuss significant risks facing the Company and the guidelines and policies to govern the process by which risk assessment and risk management is undertaken.
- C. Conduct an annual self-assessment of the Committee's performance.
- D. Other
1. Set clear employment policies for Southern Company's hiring of employees or former employees of the independent auditors.
 2. Report Committee activities and findings to the Board on a regular basis.
 3. Report Committee activities in the Company's annual proxy statement to shareholders.
 4. Review this charter at least annually and recommend appropriate changes.

ADOPTED ON OCTOBER 17, 2005

BY THE SOUTHERN COMPANY

BOARD OF DIRECTORS

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**Alabama Power Company
Nominating Committee Charter**

Function

The Nominating Committee identifies and recommends to the Board of Directors the nominees for election to the Board.

Membership

The Committee shall be composed of no less than three directors. The Chairman shall be selected from among the Committee members. The Committee and its Chairman shall be appointed annually by the Board of Directors.

Meetings

The Nominating Committee has no scheduled meeting times. Special meetings will be called as needed by the Chairman of the Committee on one day's notice to all members of the Committee. A quorum for the transaction of any business by the Committee shall be a majority of the members of the Committee. The act of a majority of the directors serving at any meeting of the Committee at which a quorum is present shall be the act of the Committee.

Approved: April 25, 2003

Proposed Amendment and Restatement of Article IX of
Alabama Power Company's Articles of Incorporation

Article IX
Capital Stock

The corporation is authorized to issue four classes of shares of capital stock to be designated, respectively, common stock, preferred stock, Class A preferred stock and preference stock. The total number of shares of stock which the corporation shall have authority to issue shall be 96,350,000 shares, of which 25,000,000 shares shall be common stock with a par value of \$40 per share, 3,850,000 shares shall be preferred stock with a par value of \$100 per share, 27,500,000 shares shall be Class A preferred stock with a par value of \$1 per share and 40,000,000 shares shall be preference stock with a par value of \$1 per share. The designations, preferences, voting powers or restrictions or qualifications thereof, the rights of redemption, retirement and conversion of the shares of capital stock of the corporation, and the general provisions with respect thereto, shall be as hereinafter set forth; provided, however, that the preferred stock, Class A preferred stock and preference stock may be divided into and issued from time to time in one or more series, each such series of preferred stock or Class A preferred stock being hereinafter for convenience referred to as a class of preferred stock or Class A preferred stock, as the case may be, all such series of preferred stock or Class A preferred stock being hereinafter for convenience collectively referred to as classes of preferred stock or Class A preferred stock, as the case may be, and each such series of preference stock shall be referred to as a series, of preference stock. The board of directors shall have, and is hereby granted the power and authority to divide the unissued shares of preferred stock, Class A preferred stock and preference stock into series (including the power and authority to reclassify, in the manner provided by law, all or any number of the unissued shares of preferred stock authorized at the time of the adoption of the joint agreement between Alabama Power Company and Birmingham Electric Company prescribing the terms and conditions of the merger of Birmingham Electric Company into and with Alabama Power Company), to fix and determine the following relative rights and preferences of any such series of preferred stock and Class A preferred stock, and the number of shares constituting any such series and the designation thereof, or any of them: (1) the dividend rate, (2) the dividend payment dates, (3) the redemption price thereof, (4) the amount payable in event of liquidation, voluntary and involuntary and (5) the sinking fund provisions, if any, for the redemption or purchase of shares; to fix and determine the following relative rights and preferences of any such series of preference stock, and the number of shares constituting any such series and the designation thereof, or any of them: (1) the dividend rate, (2) the dividend payment dates, (3) the dividend rights, including the cumulative or non-cumulative nature thereof, (4) the terms and conditions for redemption of shares and the redemption price thereof, (5) the amount payable in event of liquidation, voluntary and involuntary, (6) the sinking fund provisions, if any, for the redemption or purchase of shares and (7) special voting rights, if any; and to increase or decrease the number of shares of any such series subsequent to the issue of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall assume the status of authorized but unissued shares of preferred stock, Class A preferred stock or preference stock, as the case may be. The board of directors may issue and sell such shares of preferred stock, Class A preferred stock or preference stock in series and any other authorized shares provided for in this Article IX. Upon the issuance of shares of Class A preferred stock and preference stock, there shall be transferred to stated capital represented by each such share of Class A preferred stock or preference stock, as the case may be, an amount equal to the excess of the consideration received over the par value thereof (up to an amount which, when added to such par value, shall not exceed such share's preferential claim in the event of involuntary liquidation) and the stated capital represented by each share so determined shall be equal to such share's preferential claim in the event of involuntary liquidation.

A. Preferred Stock

1. Classes of Preferred Stock

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2. General Provisions

The following provisions shall apply to all classes of preferred stock and Class A preferred stock which may now or hereafter be authorized or created irrespective of class:

a. The holders of the preferred stock and Class A preferred stock of each class shall be entitled to receive dividends, payable when and as declared by the board of directors, on such dates and at such rates as shall be determined for the respective classes, from the first day of the current dividend period within which such stock shall have been originally issued or from such other date within such dividend period as the board of directors may have determined for such class, before any dividends shall be declared or paid upon or set apart for the common stock or any other kind of stock of the corporation not having preference over the preferred stock and Class A preferred stock as to the payment of dividends. Such dividends shall be cumulative so that if for any dividend period or periods dividends shall not have been paid or declared and set apart for payment upon all outstanding preferred stock and Class A preferred stock at the rates and from the dates determined for the respective classes, the deficiency shall be fully paid, or declared and set apart for payment, before any dividends shall be declared or paid upon the common stock or any other kind of stock of the corporation not having preference over the preferred stock and Class A preferred stock as to the payment of dividends. Dividends shall not be declared and set apart for payment, or paid, on the preferred stock or Class A preferred stock of any one class, for any dividend period, unless dividends have been or are contemporaneously declared and set apart for payment, or paid, on the preferred stock and Class A preferred stock of all classes for all dividend periods terminating on the same or on an earlier date.

b. When full cumulative dividends as aforesaid upon the preferred stock and Class A preferred stock of all classes then outstanding for all past dividend periods and for the current dividend periods shall have been paid or declared and set apart for payment, the board of directors may declare dividends on the common stock or on any other kind of stock over which the preferred stock and Class A preferred stock have preference as to the payment of dividends, and no holders of any class of the preferred stock or Class A preferred stock as such shall be entitled to share therein. No dividends (other than dividends paid in stock over which the preferred stock and Class A preferred stock have preference as to the payment of dividends and as to assets or dividends paid in cash or property, if presently thereafter there shall be paid to the corporation in cash or property an amount equal to such dividends, for shares of, or as a capital contribution with respect to, such stock over which the preferred stock and Class A preferred stock have such preference) shall be paid or any other distribution of assets made, by purchase of shares or otherwise, on common stock or on any other kind of stock over which the preferred stock and Class A preferred stock have preference as to the payment of dividends or as to assets except out of accumulated surplus available for distribution to stock over which the preferred stock and Class A preferred stock have preference as to the payment of dividends and as to assets, earned subsequent to January 31, 1942.

c. Upon any dissolution, liquidation or winding up of the corporation, whether voluntary or involuntary, the holders of preferred stock and Class A preferred stock of each class, without any preference of the shares of any class of preferred stock or Class A preferred stock over the shares of any other class of preferred stock or Class A preferred stock, shall be entitled to receive out of the assets of the corporation, whether capital, surplus or other, before any distribution of the assets to be distributed shall be made to the holders of common stock or of any other kind of stock not having preference as to assets over the preferred stock or Class A preferred stock, the amount specified to be payable on the shares of such class in the event of voluntary or involuntary liquidation, as the case may be. In case the assets shall not be sufficient to pay in full the amounts determined to be payable on all the shares of preferred stock and Class A preferred stock in the event of voluntary or involuntary liquidation, as the case may be, then the assets available for such payment shall be distributed to the extent available as follows: first,

to the payment, pro rata, of the amount payable in the event of involuntary liquidation on each share of preferred stock and Class A preferred stock outstanding irrespective of class; second, to the payment of the accrued dividends on such shares, such payment to be made pro rata in accordance with the amount of accrued dividends on each such share; and, third, to the payment of any amounts in excess of the amount payable in the event of involuntary liquidation on each such share plus accrued dividends which may be payable on the shares of any class in the event of voluntary or involuntary liquidation, as the case may be, such payment also to be

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made pro rata in accordance with the amounts, if any, so payable on each such share. After payment to the holders of the preferred stock and the Class A preferred stock of the full preferential amounts hereinbefore provided for, the holders of the preferred stock and the Class A preferred stock as such shall have no right or claim to any of the remaining assets of the corporation, either upon any distribution of such assets or upon dissolution, liquidation or winding up, and the remaining assets to be distributed, if any, upon a distribution of such assets or upon dissolution, liquidation or winding up, may be distributed among the holders of the common stock or of any other kind of stock over which the preferred stock and the Class A preferred stock have preference as to assets. Without limiting the right of the corporation to distribute its assets or to dissolve, liquidate or wind up in connection with any sale, merger, or consolidation, the sale of all the property of the corporation to, or the merger or consolidation of the corporation into or with, any other corporation shall not be deemed to be a distribution of assets or a dissolution, liquidation or winding up for the purpose of this paragraph.

d. At the option of the board of directors of the corporation, the corporation may redeem any class of preferred stock or Class A preferred stock which is redeemable, and each such class may be redeemed, as a whole or in part, at any time at the redemption price specified for such class. Not less than thirty nor more than sixty days prior to the date fixed for redemption a notice of the time and place thereof shall be given to the holders of record of the preferred stock or Class A preferred stock so to be redeemed, by mail or publication, in such manner as may be prescribed by the by-laws of the corporation or by resolution of the board of directors, but such resolution shall in no way conflict with the by-laws. In every case of redemption of less than all the outstanding shares of any one class of preferred stock or Class A preferred stock, the shares of such class to be redeemed shall be chosen by lot in such manner as may be prescribed by resolution of the board of directors. At any time after notice of redemption has been given in the manner prescribed by the by-laws of the corporation or by resolution of the board of directors to the holders of stock so to be redeemed, the corporation may deposit, or may cause its nominee to deposit, the aggregate redemption price with some bank or trust company in the Borough of Manhattan, The City of New York, or in the city of Birmingham, Alabama, named in such notice, payable on the date fixed for redemption as aforesaid and in the amounts aforesaid to the respective orders of the holders of the shares so to be redeemed, on endorsement to the corporation or its nominee, or otherwise, as may be required, and upon surrender of the certificates for such shares. Upon the deposit of such money as aforesaid, or, if no such deposit is made, upon such redemption date (unless the corporation defaults in making payment of the redemption price as set forth in such notice), such holders shall cease to be shareholders with respect to such shares, and from and after the making of such deposit, or, if no such deposit is made, after the redemption date (the corporation not having defaulted in making payment of the redemption price as set forth in such notice), such holders shall have no interest in or claim against the corporation, or its nominee, with respect to such shares, but shall be entitled only to receive such moneys on the date fixed for redemption as aforesaid from such bank or trust company, or, if no such deposit is made, from the corporation, without interest thereon, upon endorsement, if required, and surrender of the certificates as aforesaid.

If such deposit shall be made by a nominee of the corporation as aforesaid, the prior holders of the shares for the redemption of which such deposit shall have been made shall, upon such deposit, cease to have any right or interest in such shares except as set forth in the foregoing paragraph, and such nominee shall, upon such deposit, become the owner of the shares with respect to which such deposit was made and certificates may be issued to such nominees in evidence of such ownership.

In case the holder of any such preferred stock or Class A preferred stock shall not, within six years after such deposit, claim the amount deposited as above stated for the redemption thereof, the depository shall upon demand pay over to the corporation such amounts so deposited and the depository shall thereupon be relieved from all responsibility to the holder thereof. No interest on such deposit shall be payable to any such holder.

Nothing herein contained shall limit any legal right of the corporation to purchase or otherwise acquire any shares of the preferred stock or Class A preferred stock; provided, however, that the corporation shall not redeem, purchase or otherwise acquire any shares of the preferred stock or Class A preferred stock, if, at the time of such redemption, purchase or other acquisition, dividends payable on the preferred stock or Class A preferred stock of any class shall be

in default in whole or in part, unless, prior to or concurrently with such redemption, purchase or other acquisition, all such defaults shall be cured or unless such action has been ordered, approved or permitted under the Public Utility Holding Company Act of 1935 by the Securities and Exchange Commission or any successor commission or regulatory authority of the United States of America.

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The corporation may from time to time reissue any shares of the preferred stock or Class A preferred stock which have been redeemed, purchased or otherwise acquired by it and resell the same for such consideration as may be fixed by the board of directors.

e. Notwithstanding any of the provisions of Article XI hereof, so long as any shares of the preferred stock or Class A preferred stock are outstanding, the corporation shall not, without the affirmative vote in favor thereof of the holders of at least two-thirds of the total voting power of the shares of preferred stock and Class A preferred stock at the time outstanding,

(1) authorize or create any kind of stock preferred as to dividends or assets over the preferred stock or Class A preferred stock or issue (such issuance to be within twelve months after such vote) any shares of any kind of stock preferred as to dividends or assets over the preferred stock or Class A preferred stock or any security convertible into such kind of stock or change any of the rights and preferences of the then outstanding preferred stock or Class A preferred stock in any manner so as to affect adversely the holders thereof; provided, however, that if any such change would adversely affect the holders of only one, but not the other, such kind of stock, only the vote of the holders of at least two-thirds of the total voting power of the outstanding shares of the kind so affected shall be required. Nothing in this paragraph contained shall authorize any such authorization, creation or change by the vote of the holders of a less number of shares of preferred stock or Class A preferred stock, or of any other class of stock, or of all classes of stock, than is required for such authorization, creation or change by the laws of the State of Alabama at the time applicable thereto;

(2) issue, sell or otherwise dispose of any shares of preferred stock if the total number of shares thereof thereafter issued and outstanding would exceed 300,000, or issue, sell or otherwise dispose of any shares of Class A preferred stock, or issue, sell or otherwise dispose of any kind of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, or issue, sell or otherwise dispose of any shares of preferred stock or Class A preferred stock or of any kind of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, which have been redeemed, purchased or otherwise acquired by the corporation, unless, in any such case, (a) the net income of the corporation available for the payment of dividends for a period of twelve consecutive calendar months within the fifteen calendar months immediately preceding the issuance, sale or disposition of such stock (including, in any case in which such stock is to be issued, sold or otherwise disposed of in connection with the acquisition of new property, the net income of the property to be so acquired, computed on the same basis as the net income of the corporation available for the payment of dividends) is at least equal to two times the annual dividend requirements on all outstanding shares of preferred stock and Class A preferred stock and of all kinds of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, including the shares proposed to be issued, and (b) the gross income of the corporation available for the payment of interest for a period of twelve consecutive calendar months within the fifteen calendar months immediately preceding the issuance, sale or disposition of such stock (including, in any case in which such stock is to be issued, sold or otherwise disposed of in connection with the acquisition of new property, the gross income of the property to be so acquired, computed on the same basis as the gross income of the corporation available for the payment of interest) is at least equal to one and one-half times the aggregate of the annual interest requirements (adjusted by provision for amortization of debt discount and expense or of premium on debt, as the case may be) on all outstanding indebtedness of the corporation and the annual dividend requirements (adjusted by provision for amortization of preferred stock premium and expense) on all outstanding shares of preferred stock and Class A preferred stock and of all kinds of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, including the shares proposed to be issued; or

(3) issue, sell or otherwise dispose of any shares of preferred stock if the total number of shares thereof thereafter issued and outstanding would exceed 300,000, or issue, sell or otherwise dispose of any shares of

Class A preferred stock, or issue, sell or otherwise dispose of any kind of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, or issue, sell or otherwise dispose of any shares of preferred stock or Class A preferred stock, or of any kind of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, which have been redeemed, purchased or otherwise acquired by the corporation, unless, in any such case, the aggregate

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of the par value of, or stated capital represented by, the outstanding shares of common stock and of the surplus of the corporation (paid in, earned and other, if any) shall be not less than the aggregate amount payable in the event of involuntary liquidation upon all outstanding shares of preferred stock and Class A preferred stock and all kinds of stock over which the preferred stock and Class A preferred stock do not have preference as to the payment of dividends and as to assets, including the shares proposed to be issued, provided that no portion of the surplus of the corporation utilized to satisfy the foregoing requirement shall be available for dividends or other distributions of assets, by purchase of shares or otherwise, on common stock or on any other kind of stock over which the preferred stock and Class A preferred stock have preference as to the payment of dividends and as to assets, until such additional shares are retired or until and to the extent that the par value of, or stated capital represented by, the outstanding shares of common stock shall have been increased.

3. Definition of Terms

- a. The term accrued dividends shall be deemed to mean in respect of any share of the preferred stock or Class A preferred stock of any class, as of any given date, the amount, if any, by which the product of the rate of dividend per annum, determined upon the shares of such class, multiplied by the number of years and any fractional part of a year which shall have elapsed from the date after which dividends on such stock became cumulative to such given date, exceeds the total dividends actually paid on such stock and the dividends declared and set apart for payment. Accumulations of dividends shall not bear interest.
- b. The term outstanding, whenever used herein with respect to shares of preferred stock or Class A preferred stock or of any other kind of stock which are by their terms redeemable, or with respect to bonds or other evidences of indebtedness, shall not include any such shares or bonds or evidences of indebtedness which have been called for redemption in accordance with the provisions applicable thereto, notice of such call for redemption having been given or appropriately provided for as required by such provisions, and for the redemption of which a sum of money sufficient to pay the amount payable on such redemption shall have been deposited by the corporation with a bank or trust company, irrevocably in trust for such purpose, or any bonds or other evidences of indebtedness for the payment of which at maturity provision has been made in a similar manner.
- c. The term net income of the corporation available for the payment of dividends shall mean the balance remaining after deducting from the total gross revenues of the corporation from all sources the following: (1) all operating expenses and taxes, including charges to income for general taxes and for federal and state taxes measured by income, for retirement or depreciation reserve and for amortization or other disposition of amounts, if any, classified as amounts in excess of original cost of utility plant, and (2) all interest charges and other income deductions, including charges to income for the amortization of debt discount, premium and expense and of preferred stock and Class A preferred stock premium and expense, and the total amount, if any, by which the charges to income or earned surplus during such period as provision for depreciation shall have been less than an amount equal to the product of the applicable percentage (as defined below) and the mathematical average of the amounts of depreciable property (as defined in Section 3 of the Supplemental Indenture dated as of May 1, 1957) at the opening of business on the first day and at the close of business on the last day of such period.
- The term applicable percentage shall mean 3.0% or such other percentage as shall be authorized or approved, upon application by the corporation, by the Securities and Exchange Commission, or by any successor commission thereto, under the Public Utility Holding Company Act of 1935.
- d. The term gross income of the corporation available for the payment of interest shall mean the balance remaining after deducting from the total gross revenues of the corporation from all sources all operating expenses and taxes, including charges to income for general taxes and for federal and state taxes measured by income, for retirement or depreciation reserve and for amortization or other disposition of amounts, if any, classified as amounts in excess of original cost of utility plant, and the total amount, if any, by which the charges to income or earned surplus during such period as provision for depreciation shall have been less than an amount equal to the product of the applicable percentage (as defined below) and the mathematical average of the amounts of depreciable property (as defined in Section 3 of the Supplemental Indenture dated as of May 1, 1957) at the opening of business on the first day and at the close of business on the last day of such period. The term applicable percentage shall mean 3.0% or such other percentage as shall be authorized or approved, upon application by the corporation, by the Securities and Exchange

Commission, or by any successor commission thereto, under the Public Utility Holding Company Act of 1935.

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B. Preference Stock
1. General Provisions

The following provisions shall apply to all series of preference stock which may now or hereafter be authorized or created irrespective of series:

a. The preference stock is subject to the prior rights and preferences of the preferred stock and Class A preferred stock.

b. So long as any shares of preference stock are outstanding, no dividends shall be declared or paid upon or set apart for the common stock or any other kind of stock not having preference over the preference stock as to the payment of dividends and as to assets, nor any sums applied to the purchase, redemption or retirement of any class of such stock, unless (i) full dividends on all shares of cumulative preference stock, of all series outstanding, for all past dividend periods shall have been paid or declared and a sum sufficient for the payment thereof set apart and the full dividend for the then-current dividend period shall have been or concurrently shall be declared, and (ii) full dividends for the then-current dividend period on all shares of non-cumulative preference stock, of all series outstanding, have been, or contemporaneously are, paid, or declared and a sum sufficient for the payment thereof set aside. Unpaid accrued dividends on the preference stock shall not bear interest.

When specified dividends are not paid in full on all series of preference stock, the shares of each series of preference stock shall share ratably in any partial payment of dividends in accordance with the sums which would be payable on said shares if all dividends were paid in full; provided, however, that non-cumulative preference stock shall not share in accumulations of accrued and unpaid dividends for prior dividend periods unless previously declared.

After such dividends as aforesaid upon the preference stock of all series then outstanding shall have been paid or declared and set apart for payment, the board of directors may declare dividends on the common stock or any other class of stock over which the preference stock has preference as to the payment of dividends, and no holders of any series of the preference stock as such shall be entitled to share therein.

c. Upon any dissolution, liquidation or winding up of the corporation, whether voluntary or involuntary, before any distribution shall be made to the holders of the common stock or any other class of stock over which the preference stock has preference as to the payment of dividends or assets, but subject to the prior rights and preferences of the holders of preferred stock and the Class A preferred stock, the holders of preference stock of each series, without any preference of the shares of any series of preference stock over the shares of any other series of preference stock, shall be entitled to receive out of the assets of the corporation, whether capital, surplus or other, the amount specified to be payable on the shares of such series in the event of voluntary or involuntary liquidation, as the case may be.

In case the assets shall not be sufficient to pay in full the amounts determined to be payable on all the shares of preference stock in the event of voluntary or involuntary liquidation, as the case may be, then the assets available for such payment shall be distributed to the extent available as follows: first, to the payment, pro rata, of the amount payable in the event of involuntary liquidation on each share of preference stock outstanding irrespective of series; second, to the payment of the accrued dividends, if any, on such shares, such payment to be made pro rata in accordance with the amount of accrued dividends on each such share; and, third, to the payment of any amounts in excess of the amount payable in the event of involuntary liquidation on each share plus accrued dividends which may be payable on the shares of any series in the event of voluntary or involuntary liquidation, as the case may be, such payment also to be made pro rata in accordance with the amounts, if any, so payable on each such share. After payment to the holders of the preference stock of the full preferential amounts hereinbefore provided for, the holders of the preference stock as such shall have no right or claim to any of the remaining assets of the corporation, either upon any distribution of such assets or upon dissolution, liquidation or winding up, and the remaining assets to be distributed, if any, upon a distribution of such assets or upon dissolution, liquidation or winding up, may be distributed among the holders of the common stock or of any other class of stock over which the preference stock has preference as to assets. Without limiting the right of the corporation to distribute its assets or to dissolve, liquidate or wind up in connection with any sale, merger or consolidation, the sale of all the property of the corporation to, or the merger or

consolidation of the corporation into or with, any other corporation shall not be deemed to be a distribution of assets or a dissolution, liquidation or winding up for the purposes of this paragraph.

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d. So long as any shares of the preference stock are outstanding, the corporation shall not, without the affirmative vote in favor thereof of the holders of at least a majority of the total voting power of the shares of preference stock at the time outstanding voting together as a single class, increase the authorized shares of preferred stock or Class A preferred stock or authorize or create any other class of stock preferred as to dividends or assets over the preference stock or change any of the rights and preferences of the then outstanding preference stock in any manner so as to affect adversely the holders thereof; provided, however, that if any such change would affect adversely the holders of only one or more series of the preference stock, but not other series of the preference stock, only the vote of the holders of at least a majority of the total voting power of the outstanding shares of the series so affected voting together as a single class shall be required; and provided further that nothing in this paragraph contained shall authorize any such authorization, creation or change by the vote of the holders of a less number of shares of preference stock, or of any other class of stock, or of all classes of stock, than is required for such authorization, creation or change by the laws of the State of Alabama at the time applicable thereto.

2. Definition of Terms

a. The term accrued dividends shall be deemed to mean (1) in respect of any share of cumulative preference stock of any series, as of any given date, the amount, if any, by which the product of the rate of dividend per annum, determined upon the shares of such series, multiplied by the number of years and any fractional part of a year which shall have elapsed from the date after which dividends on such stock became cumulative to such given date, exceeds the total dividends actually paid on such stock and the dividends declared and set apart for payment and (2) in respect of any share of non-cumulative preference stock of any series, as of any given date, the amount, if any, by which the product of the rate of dividend per annum, determined upon the shares of such series, multiplied by the number of days which shall have elapsed for the then current dividend period, exceeds the total dividends actually paid on such stock and the dividends declared and set apart for payment for such current dividend period.

b. The term outstanding, whenever used herein with respect to shares of preference stock or of any other kind of stock which are by their terms redeemable, or with respect to bonds or other evidences of indebtedness, shall not include any such shares or bonds or evidences of indebtedness which have been called for redemption in accordance with the provisions applicable thereto, notice of such call for redemption having been given or appropriately provided for as required by such provisions, and for the redemption of which a sum of money sufficient to pay the amount payable on such redemption shall have been deposited by the corporation with a bank or trust company, irrevocably in trust for such purpose, or any bonds or other evidences of indebtedness for the payment of which at maturity provision has been made in a similar manner.

C. Common Stock

There shall be a class of stock of the corporation designated as common stock and each share of common stock shall be equal to every other share of such stock in every respect.

D. Voting Powers

1. At all elections of directors of the corporation, the holders of preferred stock and Class A preferred stock shall have full voting rights with the holders of common stock, all voting together as a single class; each holder of preferred stock and Class A preferred stock with a stated value of \$100 being entitled to two-fifths vote for each share thereof standing in his name, each holder of Class A preferred stock with a stated value of \$25 per share being entitled to one-tenth vote for each share thereof standing in his name, each holder of Class A preferred stock with a stated value of \$100,000 being entitled to 400 votes for each share thereof standing in his name and each holder of common stock being entitled to one vote for each share thereof standing in his name. In addition, with the approval of the board of directors and the holders of a majority of the outstanding shares of common stock, the joint agreement may be amended to provide that the holders of outstanding shares of any series of preference stock may be entitled to full voting rights in the election of directors, to vote together with the holders of common stock, preferred stock and Class A preferred stock, with each holder of preference stock being entitled to one-tenth of a vote for each share thereof standing in his name.

On all other matters, except on matters in respect of which the laws of the State of Alabama shall provide that all shareholders shall have the right to vote irrespective of whether such right shall have been relinquished by

any of such shareholders and except as otherwise herein provided, the holders of common stock shall have the exclusive right to vote.

At all elections of directors of the corporation, each holder of common stock, preferred stock and Class A preferred stock entitled to vote for directors shall have the right to cumulate his votes and to give to one candidate for whom he may vote as many votes as the number of directors to be elected by the holders of the class of stock held by such shareholder multiplied by the number of his votes equals, or to distribute them on the same principle among as many such candidates as he sees fit. If this joint agreement has been amended to provide that the holders of the preference stock shall have the right to vote generally in the election of directors, the holders of the preference stock shall not have the right to cumulate their votes.

2. Notwithstanding the foregoing, whenever and as often as four quarterly dividends payable on the preferred stock or Class A preferred stock of any class shall be in default, in whole or in part, the holders of the preferred stock and Class A preferred stock of all classes shall have the exclusive right, voting separately and as a single class, to vote for and to elect the smallest number of directors that shall constitute a majority of the then authorized number of directors of the corporation. In the event of defaults entitling the preferred stock and Class A preferred stock to vote as aforesaid, the holders of common stock shall have the exclusive right, subject to the rights of the holders of the preference stock, voting separately and as a class, to vote for and to elect the greatest number of directors that shall constitute a minority of the then authorized number of directors of the corporation. In each such instance in which the holders of the preferred stock and the Class A preferred stock are entitled to vote separately and as a single class or to vote together with the holders of the preference stock and common stock, other than for the election of directors, the relative voting power of the various classes of stock shall be computed as hereinafter provided. These additional voting rights of the holders of the preferred stock and Class A preferred stock shall cease, however, when all defaults in the payment of dividends on their stock shall have been cured, and such dividends shall be declared and paid out of any funds legally available therefor as soon as, in the judgment of the board of directors, is reasonably practicable.

Whenever the right shall have accrued to the holders of the preferred stock and Class A preferred stock to elect directors, voting separately as a class, the terms of office, as directors, of all persons who may be directors of the corporation at the time shall terminate upon the election of a majority of the board of directors by the holders of the preferred stock and Class A preferred stock. If the holders of the common stock shall not then have elected the remaining directors of the corporation, the directors of the corporation, in office just prior to the election of a majority of the board of directors by the holders of the preferred stock and Class A preferred stock shall elect the remaining directors of the corporation. Thereafter so long as the majority of the board of directors is being elected by the holders of the preferred stock and Class A preferred stock, the remaining directors, whether elected by directors as aforesaid or by the holders of the common stock, shall continue in office until their successors are elected by the holders of the common stock. Any vacancy in the board of directors occurring during any period that the preferred stock and Class A preferred stock shall have representatives on the board by exercise of the special right herein provided to elect a majority of the board, shall be filled by a majority vote of the remaining directors representing the class of stock theretofore represented by the director causing the vacancy or by the remaining director representing such class if there be but one. Upon the termination of such exclusive right of the holders of the preferred stock and Class A preferred stock to elect a majority of the directors of the corporation, the terms of office of all the directors of the corporation elected by vote of the holders of the preferred stock and Class A preferred stock shall terminate and their successors may be elected by the vote of a majority of the remaining directors or at a meeting of the shareholders of the corporation then entitled to vote.

Whenever the right shall have accrued to the holders of the preferred stock and Class A preferred stock to elect directors, voting separately as a class, it shall be the duty of the chairman of the board, the president, a vice-president or the secretary of the corporation forthwith to call and cause notice to be given to the shareholders entitled to vote at a meeting to be held at such time as the officers of the corporation may fix, not less than forty-five nor more than sixty days after the accrual of such right, for the purpose of electing directors. The notice so given shall be mailed to each holder of record of the preferred stock and Class A preferred stock at his last known address appearing on the books of the corporation and shall set forth, among other things, (i) that by reason of the fact that four quarterly dividends payable on the preferred stock or Class A preferred stock of any class are in default, the holders of the preferred stock

and Class A preferred stock, voting separately as a class, have the right to elect the smallest number of directors necessary to constitute a majority of the full board of directors of the corporation, (ii) that any holder of the preferred stock or Class A preferred stock has the right, at any reasonable time, to inspect, and make copies of, the list or lists of holders of the preferred stock and Class A preferred stock maintained at the principal office of the corporation or at the office of any transfer agent of the preferred stock or Class A preferred stock, and (iii) either the entirety of this paragraph or the

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substance thereof with respect to the number of shares of the preferred stock and Class A preferred stock required to be represented at any meeting, or adjournment thereof, called for the election of directors of the corporation. At the first meeting of shareholders held for the purpose of electing directors during such time as the holders of the preferred stock and Class A preferred stock shall have the special right, voting separately as a class, to elect directors, the presence in person or by proxy of the holders of a majority of the outstanding common stock shall be required to constitute a quorum of such class for the election of directors, and the presence in person or by proxy of the holders of a majority of the total voting power of the outstanding shares of preferred stock and Class A preferred stock shall be required to constitute a quorum of such class for the election of directors; provided, however, that in the absence of a quorum of the holders of the preferred stock and Class A preferred stock, no election of directors shall be held, but a majority of the total voting power of the holders of the preferred stock and Class A preferred stock who are present in person or by proxy shall have power to adjourn the election of the directors to a date not less than fifteen nor more than fifty days from the giving of the notice of such adjourned meeting hereinafter provided for; and provided, further, that at such adjourned meeting, the presence in person or by proxy of the holders of 35% of the total voting power of the outstanding preferred stock and Class A preferred stock shall be required to constitute a quorum of such class for the election of directors. In the event such first meeting of shareholders shall be so adjourned, it shall be the duty of the chairman of the board, the president, a vice-president or the secretary of the corporation, within ten days from the date on which such first meeting shall have been adjourned to cause notice of such adjourned meeting to be given to the shareholders entitled to vote thereat, such adjourned meeting to be held not less than fifteen days nor more than fifty days from the giving of such second notice. Such second notice shall be given in the form and manner hereinabove provided for with respect to the notice required to be given of such first meeting of shareholders, and shall further set forth that a quorum was not present at such first meeting and that the holders of 35% of the total voting power of the outstanding preferred stock and Class A preferred stock shall be required to constitute a quorum of such class for the election of directors at such adjourned meeting. If the requisite forum of holders of the preferred stock and Class A preferred stock shall not be present at said adjourned meeting, then the directors of the corporation then in office shall remain in office until the next annual meeting of the corporation, or special meeting in lieu thereof, and until their successors shall have been elected and shall qualify. Neither such first meeting nor such adjourned meeting shall be held on a date within sixty days of the date of the next annual meeting of the corporation or special meeting in lieu thereof. At each annual meeting of the corporation, or special meeting in lieu thereof, held during such time as the holders of the preferred stock and Class A preferred stock, voting separately as a class, shall have the right to elect a majority of the board of directors, the foregoing provisions of this paragraph shall govern such annual meeting, or special meeting in lieu thereof, as if said annual meeting or special meeting were the first meeting of shareholders held for the purpose of electing directors after the right of the holders of the preferred stock and Class A preferred stock, voting separately as a class to elect a majority of the board of directors, should have accrued, with the exception that if, at any adjourned annual meeting, or special meeting in lieu thereof, 35% of the total voting power of the outstanding preferred stock and Class A preferred stock is not present in person or by proxy, subject to the rights of the holders of the preference stock, all the directors shall be elected by a vote of the holders of a majority of the common stock of the corporation present or represented at the meeting.

3. Notwithstanding the foregoing, in the event that (1) with respect to any series of non-cumulative preference stock, any six quarterly dividends (whether or not consecutive and whether or not earned and declared) or (2) with respect to any series of cumulative preference stock, any six consecutive quarterly dividends, have not been paid in full on such series of preference stock, in whole or in part, the holders of the preference stock, together with all other series of preference stock upon which like voting rights are then exercisable, shall have the exclusive right, voting separately and as a single class, to vote for and to elect two additional directors of the corporation and the authorized number of directors of the corporation shall be increased accordingly to effect such election. These additional voting rights of the holders of the preference stock will continue until such time as (1) with respect to any series of non-cumulative preference stock, full dividends on such series of preference stock have been paid or declared and set apart regularly for at least one year (four consecutive full quarterly dividend periods), or (2) with respect to any series of cumulative preference stock, the dividends in arrears and the current dividend on such series of preference stock shall have been paid or declared and set aside for payment, at which time in either case, such right will terminate, subject to revesting

in the event of a subsequent failure to pay dividends of the character described above. Upon termination of the right of the holders of shares of the preference stock to vote as a single class for the election of directors, the term of office of all directors then in office elected by such holders voting as a single class will terminate immediately.

Whenever the right shall have accrued to the holders of the preference stock to elect directors, voting separately as a class, it shall be the duty of the chairman of the board, the president, a vice-president or the secretary of the corporation forthwith to call and cause notice to be given to the shareholders entitled to vote at a meeting to

be held at such time as the officers of the corporation may fix, not less than forty-five nor more than sixty days after the accrual of such right, for the purpose of electing directors. The notice so given shall be mailed to each holder of record of the preference stock at his last known address appearing on the books of the corporation and shall set forth, among other things, (i) that by reason of the fact that six quarterly dividends payable on such series of preference stock have not been paid, the holders of the preference stock, voting together as a single class with the holders of one or more other series of preference stock upon which like voting rights are then exercisable, have the right to elect two additional directors of the corporation, (ii) that any holder of the preference stock has the right, at any reasonable time, to inspect, and make copies of, the list or lists of holders of the preference stock maintained at the principal office of the corporation or at the office of any transfer agent of the preference stock, and (iii) either the entirety of this paragraph or the substance thereof with respect to the number of shares of the preference stock required to be represented at any meeting, or adjournment thereof, called for the election of directors of the corporation.

At the first meeting of shareholders held for the purpose of electing directors during such time as the holders of the preference stock shall have the special right, voting separately as a class, to elect two directors, the presence in person or by proxy of the holders of a majority of the total voting power of the outstanding shares of preference stock shall be required to constitute a quorum of such class for the election of the two additional directors; provided, however, that in the absence of a quorum of the holders of the preference stock, no election of the two additional directors shall be held, but a majority of the total voting power of the holders of the preference stock who are present in person or by proxy shall have the power to adjourn the election of the two additional directors to a date not less than fifteen nor more than fifty days from the giving of the notice of such adjourned meeting hereinafter provided for; and provided, further, that at such adjourned meeting, the presence in person or by proxy of the holders of 35% of the total voting power of the outstanding preference stock shall be required to constitute a quorum of such class for the election of the two additional directors. In the event such first meeting of shareholders shall be so adjourned, it shall be the duty of the chairman of the board, the president, a vice-president or the secretary of the corporation, within ten days from the date on which such first meeting shall have been adjourned to cause notice of such adjourned meeting to be given to the shareholders entitled to vote thereat, such adjourned meeting to be held not less than fifteen days nor more than fifty days from the giving of such second notice. Such second notice shall be given in the form and manner hereinabove provided for with respect to the notice required to be given of such first meeting of shareholders, and shall further set forth that a quorum was not present at such first meeting and that the holders of 35% of the total voting power of the outstanding preference stock shall be required to constitute a quorum of such class for the election of the two additional directors at such adjourned meeting. If the requisite forum of holders of the preference stock shall not be present at said adjourned meeting, then the two directors of the corporation to be elected by the holders of the preference stock pursuant to the terms hereof shall be elected at the next annual meeting of the corporation, or special meeting in lieu thereof, as hereinafter provided. Neither such first meeting nor such adjourned meeting shall be held on a date within sixty days of the date of the next annual meeting of the corporation or special meeting in lieu thereof. At each annual meeting of the corporation, or special meeting in lieu thereof, held during such time as the holders of the preference stock, voting separately as a single class, shall have the right to elect two additional members of the board of directors, the foregoing provisions of this paragraph shall govern such annual meeting, or special meeting in lieu thereof, as if said annual meeting or special meeting were the first meeting of shareholders held for the purpose of electing directors after the right of the holders of the preference stock, voting separately as a class to elect two additional directors, should have accrued, with the exception that if, at any adjourned meeting, or special meeting in lieu thereof, 35% of the total voting power of the outstanding preference stock is not present in person or by proxy, the two directors of the corporation previously elected by the holders of the preference stock pursuant to the terms hereof, if any, shall remain in office until the next annual meeting of the corporation, or special meeting in lieu thereof, and until their successors shall have been elected and shall qualify.

4. For the purposes of the foregoing provisions, other than when the holders of the preferred stock, the Class A preferred stock, the common stock and if this joint agreement has been amended to provide that the holders of the preference stock shall have the right to vote generally in the election of directors, the preference stock vote together as a single class for the election of directors, the preferred stock and Class A preferred stock of all classes shall be deemed to be a single class and the preference stock of all series shall be deemed to be a single class, and the relative

voting power of each class of preferred stock and Class A preferred stock, each series of preference stock and the common stock shall be determined as follows:

- a. the relative voting power of each share of preferred stock and Class A preferred stock for purposes of all votes and consents hereunder shall be in the same proportion to all the outstanding shares of

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preferred stock and Class A preferred stock as the ratio of (i) the stated capital of such share to (ii) the aggregate stated capital of all then outstanding shares of preferred stock and Class A preferred stock.

b. the relative voting power of each share of preference stock for purposes of all votes and consents hereunder shall be in the same proportion to all the outstanding shares of preference stock as the ratio of (i) the stated capital of such share to (ii) the aggregate stated capital of all then outstanding shares of preference stock.

c. for purposes of computation

(1) in voting by holders of preferred stock and Class A preferred stock as a single class, each share of preferred stock or Class A preferred stock having the lowest stated capital then outstanding shall have one vote and each share of preferred stock and Class A preferred stock having a stated capital other than the lowest stated capital then outstanding shall have that number of votes which is proportionate to such one vote as determined pursuant to subparagraph (a) above,

(2) in voting by holders of preference stock as a single class, each share of preference stock having the lowest stated capital then outstanding shall have one vote and each share of preference stock having a stated capital other than the lowest stated capital then outstanding shall have that number of votes which is proportionate to such one vote as determined pursuant to subparagraph (b) above, and

(3) in voting by holders of preferred stock, Class A preferred stock and preference stock together with the holders of the common stock, each share of common stock shall have one vote, each share of preferred stock shall have one vote, each share of Class A preferred stock shall have that number of votes which is proportionate to such one vote as determined pursuant to subparagraph (a) above and each share of preference stock shall have that number of votes which is proportionate to such one vote as determined pursuant to subparagraph (b) above.

D. Miscellaneous Provisions

1. The holders of the preferred stock, Class A preferred stock and preference stock shall have no pre-emptive rights to subscribe to any additional shares of the capital stock of the corporation of any kind, or any rights to exchange shares issued for shares to be issued; but, before issuing or disposing of any shares of common stock or any bonds, debentures or other obligations, or rights or options, which are convertible into or exchangeable for or which entitle the holder or owner to subscribe for or purchase any shares of common stock, the board of directors shall offer to the holders of the common stock at the time outstanding, and the holders thereof shall be entitled to purchase or subscribe for the shares of common stock or the bonds, debentures or other obligations, or rights or options, which are convertible into or exchangeable for such stock or which entitle the holder or owner thereof to subscribe for or purchase such stock, upon terms not less favorable to the purchaser (without deduction of such compensation, allowance or discount for the sale, underwriting or purchase thereof as may be fixed by the board of directors) than those on which the board of directors issues and disposes of such stock, bonds, debentures, obligations or rights to other than such holders of common stock.
2. The corporation may issue and dispose of any of its authorized shares of stock for such consideration as may be fixed from time to time by the board of directors subject to the laws of the state of Alabama then applicable.
3. The corporation may from time to time, out of its net profits or surplus earnings, purchase any of its stock outstanding at such price as may be fixed by its board of directors and accepted by the holders of the stock purchased, but such price shall not exceed the redemption price, if any, of the stock purchased.
4. The corporation shall be entitled to treat the person in whose name any share, right or option is registered as the owner thereof, for all purposes, and shall not be bound to recognize any equitable or other claim to or interest in such share, right or option on the part of any other person, whether or not the corporation shall have notice thereof, save as may be expressly provided by the laws of the state of Alabama.
5. A director shall be fully protected in relying in good faith upon the books of account of the corporation or statements prepared by any of its officials as to the value and amount of the assets, liabilities and net profits of the

corporation, or any other facts pertinent to the existence and amount of surplus or other funds from which dividends might properly be declared and paid.

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