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**SAMPLE CONVERTIBLE PREFERRED
STOCK PURCHASE AGREEMENT**

NEWCO, Inc.

STOCK PURCHASE AGREEMENT dated as of March 31, 200X by and among
NEWCO, Inc. (the “Company”), and Each of the Investors (the “Investors”)
Listed in Exhibit 6.1

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AGREEMENT dated March 31, 1994, between Newco, Inc., a Delaware corporation and each of the Investors listed in Exhibit 2.1.

PREAMBLE

The Company wishes to obtain equity financing. The Investors are willing, on the terms contained in this Agreement, to purchase Series A Convertible Preferred Stock of the Company having the characteristics set forth in the Certificate of Designation, as amended, attached as Exhibit 1.1. Capitalized terms are defined in the first Article. Exhibits are incorporated by reference into this Agreement as though such exhibits were set forth at the point of such reference. The neuter gender shall include the masculine and feminine genders as appropriate.

ARTICLE I : DEFINED TERMS

The following terms, when used in this Agreement, have the following meanings, unless the context otherwise indicates:

“**Acceptable Currency**” shall mean and include cash and any other method of payment which will result in such payment being credited to the account of the Company at the bank previously designated to the Investor in time to earn interest for the day of the Closing [the day immediately following the day of the Closing].

“**33 Act**” means the Securities Act of 1933[, as amended, or any similar federal law then in force].

“**34 Act**” means the Securities Exchange Act of 1934.

“**Affiliate**” means, with respect to any specified Person, (1) any other Person who, directly or indirectly, owns or controls, is under common ownership or control with, or is owned or controlled by, such specified Person, (2) any other Person who is a director, officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, of the specified Person or a Person described in clause (1) of this paragraph, (3) another Person of whom the specified Person is a director, officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (4) another Person in whom the specified Person has a substantial beneficial interest or as to whom the specified Person serves as trustee or in a similar capacity, or (5) any relative or spouse of the specified Person or any of the foregoing Persons, any relative of such spouse or any spouse of any such relative; provided, however, that at any time after the Closing Date, the Company and the Subsidiaries on the one hand and Seller and its Affiliates (other than the Company and the Subsidiaries) shall not be deemed to be Affiliates of each other.

“Best Knowledge” shall mean and include (a) actual knowledge of the Person, including, the actual knowledge of any of the officers or directors of the Company and the administrators of any of the facilities operated by the Company or any of its subsidiaries and (b) that knowledge which a prudent businessperson could have obtained in the management of his business after making due inquiry, and after exercising due diligence, with respect thereto.

“Bylaws” means the bylaws of Newco, Inc., as amended.

“Certificate of Incorporation” means the certificate of incorporation of Newco, Inc., as originally filed with the Delaware Secretary of State together with all amendments thereto.

“Certificate of Designation” means the certificate of designation adopted by the Newco board of directors establishing the rights, limitations, etc., of the Convertible Preferred Stock.

“Closing” and **“Closing Date”** mean the consummation of the Company’s sale and the Investors’ purchase of the Convertible Preferred Stock, and the date on which the same occurs or occurred.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the \$.01 par value common stock of Newco, Inc.

“Convertible Preferred Stock” means the \$.01 par value cumulative convertible preferred stock, Series A of Newco, Inc. having the characteristics set forth in the Certificate of Designation.

“Employee Benefit Plan” means any plan regulated under the Employees Retirement and Income Supplement Act (“ERISA”).

“Financial Statements” means any financial statements (including the Notes thereto) of Newco, Inc. certified by the Company’s independent public accountants and any such statements not so certified but containing substantially all the information covered in such certified statements, including a balance sheet as of the end of a fiscal period and statements of income and retained earnings and of sources and applications of funds for such fiscal period, together with all notes thereto.

“Financial Statements” shall mean all of the following:

(a) the audited financial statements of the Company as of March 31, 1992 (including all schedules and notes thereto), consisting of the balance sheet at such date and the related statements of income and expenses, retained earnings, changes in financial position and cash flows for the twelve-month period then ended; and

(b) the audited financial statements of the Company as of March 31, 1993 (including all schedules and notes thereto), consisting of the balance sheet at such date and the related statements of income and expenses, retained earnings, changes in financial position and cash flows for the twelve-month period then ended. In addition to (a) and (b) above, after the date of this Agreement, the term “Financial Statements” shall include any and all interim financial statements thereafter issued.

“**Financial Statement Date**” means the date of the most recent Financial Statements of the Company.

“**Founders**” means the signatories to this Agreement under the heading of Founders.

“**Holder**” means an Investor (or its successors or assigns) who continues to hold either Common Stock or Convertible Preferred Stock.

“**Independent Public Accountants**” means that firm of independent certified public accountants selected by the Company’s Board of Directors [with the approval of the Investor Board Members].

“**Investor Board Members**” means that individual or individuals who sit on the Company’s Board of Directors at the request or insistence (whether by written agreement or otherwise) of the Investors.

“**Offering Memorandum**” means Newco, Inc.’s private offering memorandum dated January 31, 1994.

“**Public Offering**” means both (i) the date of the effectiveness of any registration statement relating to the underwritten distribution Company’s Common Stock which is filed by the Company under the ‘33 Act with proposed maximum offering proceeds to the Company (calculated in accordance with Rule 457 under the ‘33 Act, as such rule may be amended from time to time) of \$ _____ or more, and (ii) the process of distributing such common stock to the public.

“**Qualified Holder**” means an Investor or a transferee of an Investor or another Qualified Holder (assuming all such transfers were made in accordance with this Agreement) who holds of record [10%] or more of the shares of the Company’s Common Stock or enjoys rights to purchase or convert into [10%] or more of the same, provided that (i) a transferee of an Investor who, in the reasonable judgment of Company, is affiliated with an actual or potential competitor of the Company may be deemed by the Company not to be a Qualified Holder; (ii) any Investor notifying the Company that it is a Venture Capital Operating Company within the meaning of the Department of Labor’s Final Plan Asset Regulation, 29 C.F.R. Part 2510 (Mar. 13, 1987) shall be a Qualified Holder; and (iii) the general and limited partners, officers or Affiliates of an Investor.

“**Shares**” means any shares of the Company’s Convertible Preferred Stock or Common Stock, as the context requires.

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