

# CURTISS WRIGHT CORP

## FORM SC 13D/A (Amended Statement of Beneficial Ownership)

Filed 11/7/2000

Address	1200 WALL ST W LYNDHURST, New Jersey 07071
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CIK	0000026324
Industry	Aerospace & Defense
Sector	Capital Goods
Fiscal Year	12/31

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**SCHEDULE 13D**

Under the Securities Exchange Act of 1934  
(Amendment No. 4)\*

**Curtiss-Wright Corporation**

(Name of Issuer)

**Common Stock**

(Title of Class of Securities)

231561 10 1

(CUSIP Number)

Scott Renwick

Unitrin, Inc.

One East Wacker Drive

Chicago, IL 60601

(312) 661-4520

(Name, Address and Telephone Number of Person  
Authorized to Receive Notices and Communications)

November 6, 2000

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of ss.ss.240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. [ ]

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See ss.240.13d-7 for other parties to whom copies are to be sent.

\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

**SCHEDULE 13D**

CUSIP No. 231561 10 1

- 1. Names of Reporting Persons.  
I.R.S. Identification Nos. of above persons (entities only).

Unitrin, Inc.  
95-4255452

- 2. Check the Appropriate Box if a Member of a Group (See Instructions)  
(a) [ ]  
(b) [ ]

- 3. SEC Use Only

- 4. Source of Funds (See Instructions)

N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to  
Items 2(d) or 2(e) [ ]

6. Citizenship or Place of Organization

Delaware

Number of Shares	7. Sole Voting Power
Beneficially Owned by Each Reporting Person With	4,382,400
	8. Shared Voting Power
	0
	9. Sole Dispositive Power
	4,382,400
	10. Shared Dispositive Power
	0

11. Aggregate Amount Beneficially Owned by Each Reporting Person

4,382,400

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares  
(See Instructions) [ ]

13. Percent of Class Represented by Amount in Row (11)

43.8%

14. Type of Reporting Person (See Instructions)

HC, CO

Amendment No. 4 to Schedule 13D

This Amendment No. 4 amends and supplements the Schedule 13D originally filed by Unitrin, Inc. ("Unitrin") on April 6, 1990, as amended by Amendment No. 1 thereto, dated February 28, 1996, Amendment No. 2 thereto, dated March 15, 1996, and Amendment No. 3 thereto, dated December 4, 1996.

Item 1. Security and Issuer

The class of equity securities to which this Schedule 13D relates is the common stock, par value \$1.00 per share (the "Common Stock"), of Curtiss-Wright Corporation, a Delaware corporation (the "Issuer"). The principal executive offices of the Issuer are located at 1200 Wall Street West, Lyndhurst, New Jersey 07071.

Item 4. Purpose of Transaction

Item 4 of the Schedule 13D is hereby restated in its entirety as follows:

On November 6, 2000, (a) Unitrin and the Issuer entered into a Distribution Agreement (a copy of which is attached hereto as Exhibit 99.1) (the "Distribution Agreement") and (b) Unitrin, CW Disposition Company, a wholly-owned subsidiary of Unitrin ("Merger Sub"), and the Issuer entered into an Agreement and Plan of Merger (a copy of which is attached hereto as Exhibit 99.2) (the "Merger Agreement") in order to effectuate the spin-off to the holders of common stock, par value \$.01 per share, of Unitrin (the "Unitrin Common Stock"), of 100% of Unitrin's equity position in the Issuer in a tax-free distribution. The spin-off is expected to be completed late in the first half of the 2001 calendar year, subject to, among other things, approval of the tax-free status of the spin-off by the Internal Revenue Service and approval by the stockholders of the Issuer, as well as approval by the stockholders of the Issuer (other than Unitrin), of a recapitalization plan for the Issuer (the "Recapitalization") that is necessary to permit the spin-off to be accomplished on a tax-free basis. The transactions contemplated by the Merger Agreement and the Distribution Agreement have been approved by both Unitrin's and the Issuer's Board of Directors.

Unitrin is the beneficial owner of approximately 4.4 million shares, or approximately 43.8%, of the Common Stock. In order to effect the spin-off on a tax-free basis, Unitrin, Merger Sub and the Issuer have agreed, pursuant to the Merger Agreement, to recapitalize the Issuer in the

following series of transactions. Pursuant to the Merger Agreement, Unitrin will contribute 4,382,400 shares of Common Stock (the "Contributed Shares") to Merger Sub. Merger Sub will be merged with and into the Issuer, with the Issuer as the surviving corporation. All the shares of common stock of Merger Sub (all of which are owned by Unitrin) will then be converted into 4,382,400 shares of a newly created Class B common stock, par value \$1.00 per share, of the Issuer (the "Class B Common Stock"). Holders of the Class B Common Stock will be entitled to elect 80% of the directors of the Issuer (or the nearest higher whole number), but their rights will otherwise be identical to those of the holders of the Common Stock to remain outstanding following the Recapitalization. The Class B Common Stock will be listed on the New York Stock Exchange. Each outstanding share of Common Stock (other than the Contributed Shares) will remain issued and outstanding following the Recapitalization. Holders of Common Stock will be entitled to elect 20% of the directors of the Issuer (or the nearest lower whole number). The Issuer will initially continue to have eight directors. One director will be designated a "Common Stock Director" at the time of the Recapitalization. Each of the remaining seven directors of the Issuer will be designated a "Class B Director." Each of the Contributed Shares will automatically be canceled with no securities or other consideration issued in exchange therefor. Unitrin has agreed to vote all its shares of Common Stock in favor of the Recapitalization and the Governance Provisions described below.

After the Recapitalization, pursuant to the Distribution Agreement, Unitrin will distribute to the holders of record of Unitrin Common Stock on a pro rata basis the shares of Class B Common Stock that it receives in the Recapitalization (the "Distribution"). The declaration of the Distribution is subject to (a) the receipt of a ruling from the Internal Revenue Service to the effect that the Distribution and the Recapitalization will qualify as tax-free transactions for federal income tax purposes (the "IRS Ruling"), (b) the effectiveness of the Form 8-A filed with the Securities Exchange Commission to register the Class B Common Stock under the Act, (c) the approval of the listing of the Class B Common Stock on the New York Stock Exchange, subject to official notice of issuance, (d) the declaration of the Cash Dividend described below and (e) other customary conditions set forth in the Distribution Agreement and the Merger Agreement. The declaration and payment of the Distribution is further conditioned upon and subject to the consummation of the Recapitalization.

The Issuer has also agreed to declare, on the declaration date for the Distribution, and subject to the conditions to the Distribution, a pro rata cash dividend (the "Cash Dividend") in the amount of \$.25 per share to all holders of Common Stock as of a record date to be determined. Unitrin has waived its right to receive its pro rata share of the Cash Dividend.

In connection with the Recapitalization, the Issuer expects to amend its certificate of incorporation to provide for, among other things, (a) a classified Board of Directors, (b) the elimination of the ability of its stockholders to act by written consent and to call a special meeting, (c) the requirement of a 66-2/3% vote for (i) its stockholders to amend its By-Laws and (ii) any amendment to its certificate of incorporation that would affect the Governance Provisions, (d) the implementation of limits on the Issuer's Board size and (e) the ability to fill Board vacancies and newly created directorships (collectively referred to herein as the "Governance Provisions"). The Governance Provisions will become effective solely upon effectiveness of the Recapitalization. The approval of the Governance Provisions by the stockholders of the Issuer is a condition to the Recapitalization.

The Issuer has agreed that prior to the second anniversary of the Distribution, it will (a) maintain its status as a company engaged in the active conduct of a trade or business and (b) not (i) merge or consolidate with or into any other corporation, (ii) liquidate or partially liquidate, (iii) sell or transfer all or substantially all of its assets in a single transaction or series of related transactions, (iv) redeem or otherwise repurchase any Issuer stock (subject to certain exceptions) or (v) take any other action or actions (other than the adoption of a stockholder rights plan) which in the aggregate would have the effect of causing or permitting one or more persons to acquire directly or indirectly stock representing a 50 percent or greater interest in the Issuer. The Issuer has also agreed that prior to the fifth anniversary of the Distribution, it will not initiate or support, or permit its stockholders to vote on, any action that would in any way alter the ability of the holders of the Class B Common Stock to (i) elect at least 80% of the directors of the Issuer or (ii) otherwise possess at least 80% of the total combined voting power of all classes of Issuer stock entitled to vote. However, the Issuer may take any of the actions referred to in clauses (b)(i) through (v) above and in the immediately preceding sentence, if prior to taking such action, the Issuer has obtained (at Unitrin's election) a written opinion in form and substance reasonably acceptable to Unitrin of a law firm reasonably acceptable to Unitrin and the Issuer, or Unitrin has obtained (at the

expense of the Issuer) a supplemental ruling from the Internal Revenue Service, that such action or actions will not result in the Distribution failing to qualify as a tax-free distribution.

If the Issuer (or any of its subsidiaries) fails to comply with any of its obligations described in the foregoing paragraph or takes or fails to take any action on or after the date of the Distribution, and such failure to comply, action or omission contributes to a determination that the Distribution fails to qualify as a tax-free distribution, then, subject to certain exceptions, the Issuer will indemnify and hold harmless Unitrin, each member of the consolidated group of which Unitrin is a member and each direct and indirect subsidiary of Unitrin from and against any and all federal, state and local taxes, including any interest, penalties or additions to tax, imposed upon or incurred by Unitrin, any member of its group, any of its direct or indirect subsidiaries or any stockholder of Unitrin as a result of the failure of the Distribution to qualify as a tax-free distribution (including any taxes payable by reason of any payment made pursuant to such indemnity). Subject to limited exceptions, the Issuer will also indemnify, defend and hold harmless Unitrin, each member of the consolidated group of which Unitrin is a member and each direct and indirect subsidiary of Unitrin from and against any liability (including established tax liabilities of Unitrin stockholders) arising from any inaccuracy in, or failure of the Issuer to comply with, any representation made by the Issuer to the Internal Revenue Service in connection with the request by Unitrin for the IRS Ruling.

Subject to limited exceptions, each of the Issuer and Unitrin has also agreed that neither it nor any of its officers, directors, employees, representatives, securityholders or agents will solicit, initiate or encourage inquiries, offers or proposals or any indication of interest or the commencement of negotiations or enter into any agreement or provide any nonpublic information regarding or in connection with any proposal for the acquisition by any third party of any shares of capital stock of the Issuer from the Issuer or Unitrin, or the acquisition of, or business combination with, the Issuer through any other means (an "Acquisition Proposal") until after the Distribution or the termination of the Distribution Agreement in accordance with its terms. Upon receipt of an unsolicited Acquisition Proposal, each of Unitrin and the Issuer are obligated to inform the other of the terms and conditions, if any, of such Acquisition Proposal and the identity of the person making the proposal and to keep the other party promptly advised of all further communications relating to such Acquisition Proposal.

Unitrin has also agreed not to, directly or indirectly, solicit proxies or take similar measures with respect to the voting of any shares of Common Stock, participate in any group with respect to the shares of Common Stock or otherwise attempt to seek control of the Issuer until after consummation of the Recapitalization or the termination of the Distribution Agreement in accordance with its terms.

The Distribution Agreement and the Merger Agreement can be terminated under various circumstances, including, but not limited to, (a) mutual written consent of the parties, (b) breaches of obligations or representations and warranties in the Distribution Agreement or the Merger Agreement which could result in a material adverse effect, (c) by C-W or Unitrin, if following receipt of an Acquisition Proposal, such party's Board of Directors is required by its fiduciary duties to its stockholders to terminate the Distribution Agreement or the Merger Agreement and accept such Acquisition Proposal, (d) by Unitrin, if the Board of Directors of the Issuer (i) no longer recommends the transactions contemplated by the Distribution Agreement and the Merger Agreement, (ii) modifies such recommendation in a manner adverse to Unitrin or (iii) approves or recommends an Acquisition Proposal, (e) by Unitrin or the Issuer if the stockholders of the Issuer fail to approve the Recapitalization (and, in the case of the Issuer, the Governance Provisions) or (f) failure to consummate the Distribution or the Merger by June 30, 2001.

The foregoing description is meant to be only a summary of certain provisions of the Distribution Agreement and the Merger Agreement. It does not purport to be complete and it is qualified in its entirety by reference to the Distribution Agreement and the Merger Agreement, copies of which are attached as exhibits hereto.

Except as described above, Unitrin has no plans or proposals which relate to Item 4(a) through (j).

Item 7. Material to be Filed as Exhibits.

Exhibit	Description
-----	-----

99.1	Distribution Agreement, dated as of November 6, 2000,
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between Unitrin, Inc. and Curtiss-Wright Corporation.

99.2 Agreement and Plan of Merger, dated as of November 6, 2000, among Unitrin, Inc., CW Disposition Company and Curtiss-Wright Corporation.

Signature

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

DATE: November 7, 2000

UNITRIN, INC.

By: /s/ Scott Renwick

-----  
Scott Renwick  
Secretary

EXHIBIT INDEX

Exhibit -----	Description -----
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# Distribution Agreement

by and between

**Unitrin, Inc.**

and

**Curtiss-Wright Corporation**

dated as of November 6, 2000

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## TABLE OF CONTENTS

ARTICLE 1		
	DEFINITIONS.....	2
	Section 1.1 General.....	2
	Section 1.2 References; Interpretation.....	9
ARTICLE 2		
	DISTRIBUTION AND OTHER TRANSACTIONS; CERTAIN COVENANTS AND REPRESENTATIONS AND WARRANTIES.....	9
	Section 2.1 The Distribution and Other Transactions.....	9
	Section 2.2 Declaration Date and Distribution Date; Further Assurances.....	15
	Section 2.3 Representations and Warranties.....	15
	Section 2.4 Certain Post-Distribution Transactions.....	19
ARTICLE 3		
	INDEMNIFICATION.....	20
	Section 3.1 Indemnification by C-W.....	20
	Section 3.2 Indemnification by UNITRIN.....	23
	Section 3.3 Treatment of Payments.....	23
	Section 3.4 Procedures for Indemnification.....	24
	Section 3.5 Remedies Not Exclusive.....	26
	Section 3.6 Subrogation.....	26
	Section 3.7 Indemnification Payments.....	26
ARTICLE 4		
	COVENANTS.....	27
	Section 4.1 Access to Information.....	27
	Section 4.2 Confidentiality.....	28
	Section 4.3 No Solicitation.....	28
	Section 4.4 Certain Other Agreements.....	29
	Section 4.5 Public Announcements.....	30
	Section 4.6 Required Consents.....	30
	Section 4.7 Litigation Cooperation.....	30
	Section 4.8 Other Matters.....	30
ARTICLE 5		
	MISCELLANEOUS.....	31
	Section 5.1 Complete Agreement; Construction.....	31
	Section 5.2 Counterparts.....	31
	Section 5.3 Survival of Agreements.....	31
	Section 5.4 Expenses.....	31
	Section 5.5 Notices.....	31
	Section 5.6 Waivers.....	33
	Section 5.7 Amendments.....	33
	Section 5.8 Assignment.....	33
	Section 5.9 Successors and Assigns.....	33
	Section 5.10 Termination.....	33
	Section 5.11 Subsidiaries.....	35
	Section 5.12 Third Party Beneficiaries.....	35
	Section 5.13 Title and Headings.....	35
	Section 5.14 Exhibits and Schedules.....	35
	Section 5.15 GOVERNING LAW.....	35
	Section 5.16 Consent to Jurisdiction.....	35
	Section 5.17 Severability.....	36

DISTRIBUTION AGREEMENT, dated as of November 6, 2000 (this "Agreement"), between UNITRIN, INC, a Delaware corporation ("UNITRIN"), and CURTISS-WRIGHT CORPORATION, a Delaware corporation ("C-W").

WHEREAS, UNITRIN owns, as of the close of business on the date hereof, 4,382,400 shares of common stock, par value \$1.00 per share, of C-W (the common stock of C-W is referred to herein as the "Common Stock");

WHEREAS, simultaneously with the execution hereof, C-W, UNITRIN and CW DISPOSITION COMPANY, a Delaware corporation and a wholly owned subsidiary of UNITRIN ("Merger Sub"), are entering into an Agreement and Plan of Merger in the form attached hereto as Exhibit A-1 (the "Recapitalization Agreement"), pursuant to which, among other things, Merger Sub will merge with and into C-W (the "Merger") with the following consequent capital stock changes: (a) 4,382,400 shares of Common Stock held by UNITRIN will be contributed to Merger Sub and, as of the Effective Time (as defined in the Recapitalization Agreement), will automatically be canceled and retired with no securities or other consideration issued in exchange therefore, (b) all of the common stock of Merger Sub owned by UNITRIN will be converted into 4,382,400 shares of a new Class B common stock, par value \$1.00 per share, of C-W ("Class B Common Stock"), which class of common stock will be entitled to elect at least 80% of the members of the Board of Directors of C-W and in all other respects will be substantially identical to the Common Stock, and (c) all other shares of Common Stock held by stockholders of C-W will remain issued and outstanding (the "Recapitalization");

WHEREAS, the Board of Directors of UNITRIN has determined that it is in the best interests of UNITRIN and its stockholders to distribute on the Distribution Date (as defined herein) all the shares of Class B Common Stock that UNITRIN will receive in the Recapitalization, on the terms and subject to the conditions set forth in this Agreement, to the holders of record of the common stock, par value \$.01 per share, of UNITRIN ("UNITRIN Common Stock"), as of the Distribution Record Date (as defined herein), on a pro rata basis (the "Distribution");

WHEREAS, the Board of Directors of C-W has determined that it is in the best interests of C-W and its stockholders that the Distribution be consummated, and the Recapitalization is a necessary and desirable means to enable the Distribution to occur;

WHEREAS, UNITRIN is expected to receive a ruling from the Internal Revenue Service to the effect that the Distribution will be, to the extent set forth therein, a tax-free distribution within the meaning of Section 355 of the Code (as defined herein); and

WHEREAS, each of UNITRIN and C-W has determined that it is necessary and desirable to set forth the principal corporate transactions required to effect the Distribution and the Recapitalization and to set forth other agreements that will govern certain other matters following the Distribution.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement, the parties hereby agree as follows:

## **ARTICLE 1 DEFINITIONS**

Section 1.1 General. As used in this Agreement, the following terms shall have the following meanings:

(a) "Action" shall mean any action, suit, arbitration, inquiry, proceeding or investigation by or before any court, any governmental or other regulatory or administrative agency, body or commission or any arbitration tribunal.

(b) "Acquisition Proposal" shall have the meaning set forth in Section 4.3(a).

(c) "Affiliate" shall mean, when used with respect to a specified person, another person that controls, is controlled by, or is under common control with the person specified. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or other interests, by contract or otherwise.

(d) "Assets" shall mean assets, properties and rights (including goodwill), wherever located (including in the possession of vendors or other third parties or elsewhere), whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person.

(e) "Business Entity" shall mean any corporation, partnership, limited liability company or other entity which may legally hold title to Assets.

-2-

(f) "Cash Dividend" shall have the meaning set forth in Section 2.1(d).

(g) "Cash Dividend Record Date" shall mean the date determined by the Board of Directors of C-W as the record date for the determination of holders of record of Common Stock entitled to receive the Cash Dividend.



- (h) "Certificate of Merger" shall have the meaning set forth in the Recapitalization Agreement.
- (i) "Class B Common Stock" shall have the meaning set forth in the recitals hereto.
- (j) "Code" shall mean the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder, including any successor legislation or regulations.
- (k) "Commission" shall mean the U.S. Securities and Exchange Commission.
- (l) "Common Stock" shall have the meaning set forth in the recitals hereto.
- (m) "C-W" shall have the meaning set forth in the heading of this Agreement.
- (n) "C-W Business" shall mean each and every business conducted at any time prior to, on or after the Distribution Date by C-W or any current, former, or future Subsidiary of C-W or other Business Entity controlled by C-W, whether or not such Subsidiary is a Subsidiary of C-W or such Business Entity is controlled by C-W on the date hereof.
- (o) "C-W Group" shall mean C-W and each Person that is a Subsidiary of C-W immediately prior to the Distribution Date.
- (p) "C-W Indemnitees" shall mean C-W, each member of the C-W Group, each of their respective present and former directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing.
- (q) "C-W Liabilities" shall mean, collectively, any and all Liabilities whatsoever that arise out of, result from or are related to the operation of the C-W

-3-

Business or the ownership of the assets of the C-W Business by C-W, any predecessor entity of C-W (and all predecessors thereto) or any Subsidiary of or Business Entity controlled by such predecessor, any current, former or future Subsidiary of C-W or any Business Entity controlled by C-W, whether such Liabilities arise before, on or after the Distribution Date and whether known or unknown, fixed or contingent, and shall include, without limitation:

- (i) any and all Liabilities to which UNITRIN or its predecessors and successors may become subject arising from or based upon its status or alleged status as a "controlling person" (as defined under Section 15 of the Securities Act and Section 20 of the Exchange Act) of C-W or a stockholder of C-W relating to (A) the Proxy Statement (or any amendment thereto) or any other solicitation materials or any oral solicitations of proxies (except for liabilities which C-W incurs as a result of, and to the extent resulting from, information provided by UNITRIN relating to UNITRIN for inclusion in the Proxy Statement (or any amendment thereto) or any such other solicitation materials or oral solicitation); or (B) any other report or document filed by C-W with the Commission at any time before, on or after the Distribution Date (except for liabilities which C-W incurs as a result of, and to the extent resulting from, information provided by UNITRIN relating to UNITRIN for inclusion in such report or document);
- (ii) any Liabilities for a breach by C-W of any representation, warranty or covenant herein or in the Recapitalization Agreement; and
- (iii) any and all Liabilities which UNITRIN incurs as a result of, and to the extent resulting from, information provided by C-W relating to C-W for inclusion in any information statement provided by UNITRIN to its stockholders or any report or document filed by UNITRIN with the Commission.
- (r) "Declaration Date" shall mean the date on which the UNITRIN Board of Directors shall declare the Distribution; provided that the declaration and the payment of the Distribution shall be conditioned upon and subject to the consummation of the Recapitalization, and the payment of the Distribution shall consist of the shares of Class B Common Stock received by UNITRIN in the Recapitalization and shall be after the consummation of the Recapitalization on the day on which the Recapitalization occurs.

(s) "DGCL" shall mean the General Corporation Law of the State of Delaware.

-4-

- (t) "Distribution" shall have the meaning set forth in the recitals hereto.
- (u) "Distribution Agent" shall mean the distribution agent selected by UNITRIN to effect the Distribution, which shall be C-W's stock transfer agent.
- (v) "Distribution Date" shall mean the date determined by the Board of Directors of UNITRIN for the mailing of certificates of Class B

Common Stock to stockholders of UNITRIN in the Distribution. The Distribution Date shall be a date as soon as practicable following the Declaration Date and shall be the day on which the Recapitalization occurs.

(w) "Distribution Record Date" shall mean the date determined by the Board of Directors of UNITRIN as the record date for the determination of the holders of record of UNITRIN Common Stock entitled to receive shares of Class B Common Stock in the Distribution.

(x) "Established Liability" shall mean, with respect to each UNITRIN stockholder, the amount of Tax Liability (including interest and penalties) resulting from the Distribution, as evidenced by (a) an amended tax return of such UNITRIN stockholder reflecting the amount of such Tax Liability, together with proof of payment of such amount, or (b) a deficiency notice received by such UNITRIN stockholder from the IRS setting forth the amount of such Tax Liability, together with proof of payment of such amount.

(y) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(z) "Form 8-A" shall mean a C-W registration statement on Form 8-A pursuant to which the Class B Common Stock shall be registered under the Exchange Act, including all amendments thereto.

(aa) "Governmental Authority" shall mean any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official or other regulatory, administrative or governmental authority.

(bb) "Governance Provisions" shall have the meaning set forth in the Recapitalization Agreement.

(cc) "HSR Act" shall have the meaning set forth in Section 2.3(a)(iii).

-5-

(dd) "Indemnifying Party" shall have the meaning set forth in Section 3.3.

(ee) "Indemnitee" shall have the meaning set forth in Section 3.3.

(ff) "IRS" shall mean the Internal Revenue Service.

(gg) "IRS Ruling" shall have the meaning set forth in Section 2.1(b)(i).

(hh) "Liabilities" shall mean any and all losses, claims, charges, debts, demands, actions, causes of action, suits, damages, obligations, payments, costs and expenses, sums of money, accounts, reckonings, bonds, specialties, indemnities and similar obligations, exonerations, covenants, contracts, controversies, agreements, promises, omissions, variances, guarantees, make whole agreements and similar obligations, and other liabilities, including all contractual obligations, whether absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising, and including those arising under any law, rule, regulation, Action, threatened or contemplated Action (including the costs and expenses of demands, assessments, judgments, settlements and compromises relating thereto and attorneys' fees and any and all costs and expenses, whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened or contemplated Actions), order or consent decree of any governmental or other regulatory or administrative agency, body or commission or any award of any arbitrator or mediator of any kind, and those arising under any contract, commitment or undertaking, including those arising under this Agreement or the Recapitalization Agreement, in each case, whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any person.

(ii) "Material Adverse Effect" shall mean, with respect to any Person, any change, effect, event, occurrence or development that is, individually or in the aggregate, materially adverse to the business, operations, assets, liabilities, condition (financial or otherwise), results of operations or prospects of such Person.

(jj) "Merger" shall have the meaning set forth in the recitals hereto.

(kk) "NYSE" shall mean the New York Stock Exchange, Inc.

(ll) "NYSE Listing Application" shall mean the application to be submitted by C-W to the NYSE for the listing of the Class B Common Stock.

-6-

(mm) "Person" shall mean any natural person, Business Entity, corporation, business trust, joint venture, association, company, partnership, other entity or government, or any agency or political subdivision thereof.

(nn) "Proxy Statement" shall have the meaning set forth in the Recapitalization Agreement.

(oo) "Recapitalization" shall have the meaning set forth in the recitals hereto.

(pp) "Recapitalization Agreement" shall have the meaning set forth in the recitals hereto.

(qq) "Required Consents" shall have the meaning set forth in Section 4.5.

(rr) "Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(ss) "Subsidiary" shall mean any corporation, limited liability company, partnership or other entity of which another entity (i) owns, directly or indirectly, ownership interests sufficient to elect a majority of the Board of Directors (or persons performing similar functions) (irrespective of whether at the time any other class or classes of ownership interests of such corporation, partnership or other entity shall or might have such voting power upon the occurrence of any contingency) or (ii) is a general partner or an entity performing similar functions (e.g., a trustee).

(tt) "Tax" or "Taxes" shall mean taxes of any kind, levies or other like assessments, customs, duties, imposts, charges or fees, including income, gross receipts, ad valorem, value added, excise, real or personal property, asset, sales, use, license, payroll, transaction, capital, net worth and franchise taxes, withholding, employment, social security, workers compensation, utility, severance, production, unemployment compensation, occupation, premium, windfall profits, transfer and gains taxes or other governmental taxes imposed or payable to the United States, or any state, county, local or foreign government or subdivision or agency thereof, and in each instance such term shall include any interest, penalties, additions to tax or additional amounts attributable to any such tax.

(uu) "Tax Claim" shall have the meaning set forth in Section 3.3.

-7-

(vv) "Third Party Claim" shall have the meaning set forth in Section 3.3.

(ww) "UNITRIN Business" shall mean each and every business (except for the C-W Business) conducted at any time prior to, on or after the Distribution Date by UNITRIN or any current, former or future Subsidiary of UNITRIN (it being understood that the foregoing does not include C-W and its Subsidiaries) or any Business Entity controlled by UNITRIN (it being understood that the foregoing does not include C-W and its Subsidiaries), whether or not such Subsidiary is a Subsidiary of UNITRIN or such Business Entity is controlled by UNITRIN on the date hereof.

(xx) "UNITRIN Common Stock" shall have the meaning set forth in the recitals hereto.

(yy) "UNITRIN Group" shall mean UNITRIN and each Person (other than any member of the C-W Group) that is a Subsidiary or Affiliate of UNITRIN immediately prior to the Distribution Date.

(zz) "UNITRIN Indemnitees" shall mean UNITRIN, each member of the UNITRIN Group, each of their respective present and former directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing, except C-W Indemnitees who would not otherwise be an UNITRIN Indemnitee.

(aaa) "UNITRIN Liabilities" shall mean, collectively, any and all Liabilities whatsoever that arise out of, result from or are related to the operation of the UNITRIN Business or the ownership of the assets of the UNITRIN Business by UNITRIN, any predecessor entity of UNITRIN (and all predecessors thereto) or any Subsidiary of or Business Entity controlled by any such predecessor, any current, former or future Subsidiary of UNITRIN or any Business Entity controlled by UNITRIN (it being understood that the foregoing does not include C-W and its Subsidiaries), whether such Liabilities arise before, on or after the Distribution Date and whether known or unknown, fixed or contingent, and shall include, without limitation:

(i) any Liabilities for a breach by UNITRIN of any representation, warranty or covenant herein or in the Recapitalization Agreement; and

(ii) any and all Liabilities which C-W incurs as a result of, and to the extent resulting from, information provided by UNITRIN relating to UNITRIN for inclusion in the Proxy Statement (or any amendment thereto), any other solicitation

-8-

materials or any oral solicitation of proxies or any report or document filed by C-W with the Commission.

Section 1.2 References; Interpretation. References in this Agreement to any gender include references to all genders, and references to the singular include references to the plural and vice versa. The words "include", "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation". Unless the context otherwise requires, references in this Agreement to Articles,

Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement. Unless the context otherwise requires, the words "hereof", "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular Article, Section or provision of this Agreement.

**ARTICLE 2**  
**DISTRIBUTION AND OTHER TRANSACTIONS; CERTAIN COVENANTS**  
**AND REPRESENTATIONS AND WARRANTIES**

Section 2.1 The Distribution and Other Transactions.

(a) The Distribution. Subject to the conditions set forth in Section 2.1(b) of this Agreement, on the Declaration Date, the Board of Directors of UNITRIN shall irrevocably declare the Distribution upon the terms set forth in this Agreement. The declaration and the payment of the Distribution shall be conditioned upon and subject to the consummation of the Recapitalization, and the payment of the Distribution shall consist of the shares of Class B Common Stock received by UNITRIN in the Recapitalization, it being understood that the Distribution will occur after, but on the same date as, the filing of the Certificate of Merger. To effect the Distribution, UNITRIN shall cause the Distribution Agent to distribute, on the Distribution Date, on a pro rata basis and taking into account Section 2.1(c), to the holders of record of UNITRIN Common Stock on the Distribution Record Date, the certificates representing the shares of Class B Common Stock received by UNITRIN in the Recapitalization. During the period commencing on the date the certificates representing shares of Class B Common Stock are delivered to the Distribution Agent and ending upon the date(s) on which certificates evidencing such shares are mailed to holders of record of UNITRIN Common Stock on the Distribution Record Date or on which fractional shares of Class B Common Stock are sold on behalf of such holders, the Distribution Agent shall hold the certificates representing shares of Class B Common Stock on behalf of

-9-

such holders. UNITRIN shall deliver to the Distribution Agent the share certificates representing the shares of Class B Common Stock held by UNITRIN. UNITRIN shall enter into an agreement with the Distribution Agent in connection with the foregoing, and shall agree, among other things, to reimburse the Distribution Agent for its reasonable costs, expenses and fees in connection with the Distribution. C-W agrees, if requested by UNITRIN, to provide such number of certificates evidencing shares of Class B Common Stock that UNITRIN shall reasonably require in order to effect the Distribution.

(b) Conditions to the Declaration and Distribution. The UNITRIN Board of Directors shall irrevocably declare the Distribution, and cause the Distribution to be effected on the Distribution Date, as soon as reasonably practicable following the satisfaction or waiver, as determined by UNITRIN in its sole discretion, of the conditions set forth below (which conditions must be satisfied or waived on or prior to the Declaration Date unless any such condition by its terms can only be satisfied after the Declaration Date in which case such condition must be satisfied or waived on or prior to the Distribution Date):

(i) the private letter ruling requested from the IRS providing that, among other things, the Recapitalization and the Distribution will qualify, to the extent set forth therein, as tax-free transactions for federal income tax purposes under Sections 354 and 355 of the Code, respectively (the "IRS Ruling") shall have been issued and shall continue in effect, such ruling shall be in form and substance satisfactory to UNITRIN in its sole discretion, and C-W shall have complied with all provisions set forth in the IRS Ruling that are required to be complied with prior to the Declaration Date and the Distribution Date;

(ii) no event outside the control of UNITRIN shall have occurred or failed to occur that prevents the lawful consummation of the Distribution;

(iii) the transactions contemplated hereby and by the Recapitalization Agreement shall be in compliance in all material respects with applicable federal and state securities and other applicable laws;

(iv) each of C-W and UNITRIN shall have received all the Required Consents;

(v) all conditions to the Recapitalization (including those set forth in Article 4 of the Recapitalization Agreement) (other than, in the case of the declaration,

-10-

the declaration and consummation of the Distribution) shall have been satisfied or waived by the applicable party, in the case of the declaration, no circumstances shall exist that would reasonably be expected to prevent the consummation of the Recapitalization immediately prior to the Distribution and, in the case of the Distribution, the Recapitalization shall have been consummated;

(vi) The Cash Dividend (as defined below) shall have been declared by the Board of Directors of C-W substantially simultaneously with the declaration of the Distribution and no circumstances shall exist that would reasonably be expected to prevent prompt payment of the Cash Dividend;

(vii) the Form 8-A shall have been filed with the Commission;

(viii) the Class B Common Stock shall have been approved for listing on the NYSE, subject to official notice of issuance;

(ix) each of the representations and warranties (other than the representation and warranty set forth in Section 2.3(a)(v) of this Agreement) of C-W set forth in this Agreement and the Recapitalization Agreement that are qualified as to materiality shall be true and correct, and any such representations and warranties that are not so qualified shall be true and correct in all material respects, as of the Declaration Date and the Distribution Date and UNITRIN shall have received a certificate of the chief executive officer of C-W as to the foregoing;

(x) C-W shall have performed or complied in all material respects with all agreements and covenants required to be performed by it under this Agreement and the Recapitalization Agreement at or prior to the Declaration Date or, if applicable, the Distribution Date and UNITRIN shall have received a certificate of the chief executive officer of C-W as to the foregoing; and

(xi) all actions and other documents and instruments reasonably necessary in connection with the transactions contemplated hereby and by the Recapitalization Agreement shall have been taken or executed, as the case may be, in form and substance reasonably satisfactory to UNITRIN.

The foregoing conditions are for the sole benefit of UNITRIN and shall not give rise to or create any duty on the part of UNITRIN to waive or not waive any such condition.

-11-

(c) Sale of Fractional Shares. UNITRIN shall appoint the Distribution Agent as agent for each holder of record of UNITRIN Common Stock who would otherwise be entitled to receive in the Distribution any fractional share of Class B Common Stock. The Distribution Agent shall aggregate all such fractional shares and sell them in an orderly manner as soon as practicable after the Distribution Date in the open market and, after completion of such sales, distribute a pro rata portion of the net proceeds from such sales, based upon the gross selling price of all such fractional shares net of all selling expenses, to each stockholder of UNITRIN who would otherwise have received a fractional share. UNITRIN shall reimburse the Distribution Agent for its reasonable costs, expenses and fees (other than selling expenses) in connection with the sale of fractional shares of Class B Common Stock and the distribution of the proceeds thereof in accordance with this Section 2.1(c).

(d) Special Dividend. (i) Subject to the conditions set forth in clause (ii) below, on the Declaration Date, the Board of Directors of C-W shall declare a pro rata cash dividend (the "Cash Dividend") in the amount of \$.25 per share to all holders of record of Common Stock on the Cash Dividend Record Date. UNITRIN hereby waives, subject to completion of the Distribution, its right to receive its pro rata share of the Cash Dividend.

(ii) The obligation of the Board of Directors of C-W to declare the Cash Dividend on the Declaration Date shall be conditioned upon the satisfaction of the conditions set forth in Section 2.1(b) hereof (other than the consummation of the Recapitalization and other than clause (vi) thereof) and in Sections 4.1 and 4.2 of the Recapitalization Agreement.

(e) Other Actions.

(i) UNITRIN shall prepare and mail, at such time as determined by UNITRIN, to the holders of UNITRIN Common Stock, such information concerning C-W, its business, operations and management, the Distribution and the tax consequences thereof and such other matters as UNITRIN shall reasonably determine or as may be required by law. UNITRIN shall give C-W and its counsel reasonable advance opportunity to review and comment upon such documents and shall consider in good faith any comments C-W timely delivers to UNITRIN with respect to such information. C-W agrees to cooperate with UNITRIN in the preparation of, and provide any information reasonably requested by UNITRIN for inclusion in, such mailing. C-W represents that all information provided to UNITRIN for such mailing shall be true and correct in all material respects. UNITRIN and C-W will prepare, and

-12-

C-W will, to the extent required under applicable law, file with the Commission any such documentation, including any no action letters or other requests for interpretive or regulatory assistance, if any, which UNITRIN reasonably determines are necessary or desirable to effectuate the Distribution and the other transactions contemplated hereby and by the Recapitalization Agreement, and UNITRIN and C-W shall each use all reasonable efforts to obtain all necessary approvals from the Commission with respect thereto as soon as practicable.

(ii) UNITRIN and C-W shall take all such action as may be necessary or appropriate under the securities or blue sky laws of the United States (and any comparable laws under any foreign jurisdiction) in connection with the Distribution and the other transactions contemplated hereby and by the Recapitalization Agreement.

(iii) C-W shall prepare and file, and shall use all reasonable efforts to have approved, an application for the listing on the NYSE of the Class B Common Stock to be distributed in the Distribution, subject to official notice of issuance.

(iv) C-W shall prepare and file the Form 8-A (which may include or incorporate by reference information contained in the Proxy Statement)

with the Commission as promptly as practicable following the execution hereof, and shall use all reasonable efforts to cause the Form 8-A to become effective under the Exchange Act immediately following the consummation of the Recapitalization or as soon thereafter as practicable.

(v) On or prior to the Distribution Date, C-W shall, from time to time as and to the extent reasonably requested by UNITRIN or requested by the IRS, provide any documentation, certifications or other information necessary to enable UNITRIN to obtain the IRS Ruling.

(vi) On or prior to the Distribution Date, each of UNITRIN and C-W shall take those actions and consummate those other transactions in connection with the Distribution that are contemplated by the IRS Ruling, the ruling request therefor or any related submissions by UNITRIN to the IRS (which submissions C-W and its counsel shall be given the opportunity to review and comment upon in accordance with clause (viii) below).

(vii) In addition to those matters specifically set forth above, UNITRIN and C-W also shall take all reasonable steps necessary and appropriate to cause the conditions set forth in Section 2.1(b) to be satisfied and to effect the

-13-

Distribution on the Distribution Date and the Cash Dividend prior to the Distribution Date.

(viii) UNITRIN will give C-W and its counsel reasonably appropriate advance opportunity to review and comment upon filings to be made by UNITRIN with the Commission or the IRS with respect to the Distribution, this Agreement, the Recapitalization Agreement or any of the transactions contemplated hereby or thereby and shall consider in good faith any comments C-W timely delivers to UNITRIN with respect to such filing.

(ix) C-W will give UNITRIN and its counsel reasonably appropriate advance opportunity to review and comment upon filings to be made by C-W with the Commission with respect to the Distribution, this Agreement, the Recapitalization Agreement and any of the transactions contemplated hereby or thereby and shall consider in good faith any comments UNITRIN timely delivers to C-W with respect to such filing.

(x) Prior to the Distribution Date, C-W shall not amend, and the C-W Board of Directors shall not approve any amendment to, C-W's Restated Certificate of Incorporation or By-Laws, other than the amendments to be effected upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware in connection with the Recapitalization and, if applicable, the Governance Provisions in accordance with the terms of the Recapitalization Agreement.

(xi) UNITRIN agrees to be present, and agrees to cause Merger Sub, as applicable, to be present, in person or by proxy at each and every stockholders meeting of C-W at which the Recapitalization and the Governance Provisions are submitted to the stockholders of C-W for consideration at such meeting, and to vote, or cause to be voted, all shares of Common Stock owned directly or indirectly by it and its Subsidiaries in favor of the Recapitalization and the Governance Provisions and similarly to execute any written consent submitted by stockholders of C-W in favor of the Recapitalization and the Governance Provisions; provided that the Governance Provisions are to become effective solely upon the effectiveness of the Merger.

(xii) On or prior to the Distribution date, each of UNITRIN and C-W, as the case may be, shall, from time to time and to the extent reasonably requested by the other, provide any documentation, certifications or other information to make required filings in connection with the transactions contemplated by this Agreement and the Recapitalization Agreement.

-14-

Section 2.2 Declaration Date and Distribution Date; Further Assurances.

(a) The parties agree that the Declaration Date and the Distribution Date, as applicable, shall occur as soon as reasonably practicable following the satisfaction or waiver of the conditions set forth in Section 2.1(b) hereof. The parties shall cause their respective Boards of Directors to meet on the Declaration Date and each shall take such corporate action at such meeting as shall be required to effect the transactions contemplated hereby and by the Recapitalization Agreement. Immediately following such meeting, C-W shall take all actions required to consummate the Recapitalization in accordance with the terms of the Recapitalization Agreement, including the filing of the Certificate of Merger with the Secretary of State of the State of Delaware.

(b) Subject to each of C-W's and UNITRIN's right to terminate this Agreement in accordance with Section 5.10, in case at any time after the date hereof any further action is reasonably necessary or desirable to carry out the Distribution, the Recapitalization or any other purpose of this Agreement or the Recapitalization Agreement, the proper officers of each party to this Agreement shall take all such necessary action. Without limiting the foregoing, UNITRIN and C-W shall use all reasonable efforts promptly to obtain the IRS Ruling and all consents and approvals, to enter into all amendatory agreements and to make all filings and applications that may be required for the consummation of the transactions contemplated by this Agreement and the Recapitalization Agreement, including all applicable governmental and regulatory filings.

Section 2.3 Representations and Warranties.

(a) C-W hereby represents and warrants to UNITRIN as follows:

(i) Organization; Good Standing. C-W is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate power required to consummate the transactions contemplated hereby and by the Recapitalization Agreement.

(ii) Authorization. The execution, delivery and performance by C-W of this Agreement and the Recapitalization Agreement and the consummation by C-W of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of C-W, other than the adoption of the Recapitalization Agreement and the approval of the Governance Provisions by the

-15-

stockholders of C-W. Each of this Agreement and the Recapitalization Agreement constitutes, and each other agreement or instrument executed and delivered or to be executed and delivered by C-W pursuant to this Agreement or the Recapitalization Agreement will, upon such execution and delivery, constitute, a legal, valid and binding obligation of C-W, enforceable against C-W in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

(iii) Consents and Filings. Except (A) for the filing of the Certificate of Merger in connection with the Recapitalization and any other filings required to be made with the Secretary of State of the State of Delaware, (B) for the NYSE Listing Application and any filings in connection therewith, (C) as required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") and (D) for the filing of the Proxy Statement and the Form 8-A and any other reports or documents required to be filed under the Exchange Act, no material consent of, or filing with, any Governmental Authority which has not been obtained or made is required to be obtained or made by C-W for or in connection with the execution and delivery of this Agreement or the Recapitalization Agreement by C-W, and the consummation by C-W of the transactions contemplated hereby or thereby.

(iv) Noncontravention. Except in the case of any consents that will be obtained prior to the Distribution Date, the execution, delivery and performance of this Agreement and the Recapitalization Agreement by C-W does not, and the consummation by C-W of the transactions contemplated hereby and thereby will not, (A) violate any applicable federal, state or local statute, law, rule or regulation, (B) violate any provision of the Restated Certificate of Incorporation or By-Laws of C-W, or (C) violate any provision of, or result in the termination or acceleration of, or entitle any party to accelerate any obligation or indebtedness under, any mortgage, lease, franchise, license, permit, agreement, instrument, law, order, arbitration award, judgment or decree to which C-W or any of its Subsidiaries is a party or by which any of them are bound, except for, in the case of clause (C) above, such violations that, individually or in the aggregate, would not (I) result in a Material Adverse Effect with respect to C-W or (II) reasonably be expected to have a material adverse effect on C-W's ability to consummate the transactions contemplated by this Agreement or the Recapitalization Agreement.

-16-

(v) Litigation. There are no actions or suits against C-W pending, or to the knowledge of C-W, threatened which seek to, and C-W is not subject to any judgments, decrees or orders which, enjoin or rescind the transactions contemplated by this Agreement or the Recapitalization Agreement or otherwise prevent C-W from complying with the terms and provisions of this Agreement or the Recapitalization Agreement.

(vi) Change of Control Adjustments. Neither the Recapitalization nor the Distribution or any of the other transactions contemplated hereby or by the Recapitalization Agreement will (A) constitute a "change of control" or otherwise result in the increase or acceleration of any benefits, including to employees of C-W, under any agreement to which C-W or any of its Subsidiaries is a party or by which it or any of its Subsidiaries is bound or (B) result in any adjustment of the number of shares subject to, or the terms of, including exercise price, any outstanding employee stock options of C-W.

(vii) Certain Transactions. Except for transactions that are described in Schedule 2.3(a)(vii), neither C-W nor any other member of the C-W Group has engaged, nor will engage, in any transaction or taken, or will take, any other action, or engaged, or will engage, in any negotiations or discussions, involving or relating to the issuance of stock of C-W or options, warrants or other rights to acquire stock of C-W (other than compensatory stock plan issuances). None of the transactions or other actions, negotiations or discussions described in Schedule 2.3(a)(vii) were undertaken by C-W in contemplation of the Distribution or are related to the Distribution.

(b) UNITRIN hereby represents and warrants to C-W as follows:

(i) Organization; Good Standing. UNITRIN is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate power required to consummate the transactions contemplated hereby and by the Recapitalization Agreement.

(ii) Authorization. The execution, delivery and performance by UNITRIN of this Agreement and the Recapitalization Agreement and the consummation by UNITRIN of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of UNITRIN, other than the formal declaration of the Distribution. Each of this Agreement and the Recapitalization Agreement constitutes, and each other agreement or instrument executed and delivered or to be executed and delivered by UNITRIN pursuant to this Agreement or the

Recapitalization Agreement will, upon such execution and delivery, constitute, a legal, valid and binding obligation of UNITRIN, enforceable against UNITRIN in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

(iii) Consents and Filings. Except (A) for the filing of the Certificate of Merger in connection with the Recapitalization and any other filings required to be made with the Secretary of State of the State of Delaware, (B) as required under the HSR Act and (C) any reports or documents required to be filed under the Exchange Act, no material consent of, or filing with, any Governmental Authority which has not been obtained or made is required to be obtained or made by UNITRIN for or in connection with the execution and delivery of this Agreement or the Recapitalization Agreement by UNITRIN, and the consummation by UNITRIN of the transactions contemplated hereby or thereby.

(iv) Noncontravention. Except in the case of consents that will be obtained on or prior to the Distribution Date, the execution, delivery and performance of this Agreement and the Recapitalization Agreement by UNITRIN does not, and the consummation by UNITRIN of the transactions contemplated hereby and thereby will not, (A) violate any applicable federal, state or local statute, law, rule or regulation, (B) violate any provision of the Certificate of Incorporation or By-Laws of UNITRIN or (C) violate any provision of, or result in the termination or acceleration of, or entitle any party to accelerate any obligation or indebtedness under, any mortgage, lease, franchise, license, permit, agreement, instrument, law, order, arbitration award, judgment or decree to which UNITRIN or any of its Subsidiaries is a party or by which any of them are bound, except for, in the case of clause (C) above, such violations that, individually or in the aggregate, would not (I) result in a Material Adverse Effect with respect to UNITRIN or (II) reasonably be expected to have a material adverse effect on UNITRIN's ability to consummate the transactions contemplated by this Agreement or the Recapitalization Agreement.

(v) Litigation. There are no actions or suits against UNITRIN pending, or to the knowledge of UNITRIN, threatened which seek to, and UNITRIN is not subject to any judgments, decrees or orders which, enjoin or rescind the transactions contemplated by this Agreement or the Recapitalization Agreement or otherwise prevent UNITRIN from complying with the terms and provisions of this Agreement or the Recapitalization Agreement.

(vi) Plan or Series of Related Transactions. As of the date hereof, there is not, and as of the Distribution Date, there will not be (except as permitted pursuant to Section 4.3 hereof and disclosed to C-W in accordance with the terms of Section 4.3 and except for the contemplated Distribution), any agreement, understanding, arrangement or substantial negotiations involving UNITRIN and concerning the acquisition by any party or parties of C-W or UNITRIN'S interest in C-W.

#### Section 2.4 Certain Post-Distribution Transactions.

(a) (i) C-W and UNITRIN shall each comply with, and shall cause its Subsidiaries to comply with, and otherwise not take, and prevent any of its Subsidiaries from taking, during the relevant time period, any action inconsistent with any representation made by such respective party to the IRS in connection with the request by UNITRIN for the IRS Ruling, and (ii) until two years after the Distribution Date, C-W will maintain its status as a company engaged in the active conduct of a trade or business, as defined in Section 355(b) of the Code.

(b) C-W agrees that (i) prior to the two year anniversary of the Distribution Date, it shall not (A) merge or consolidate with or into any other corporation, (B) liquidate or partially liquidate, (C) sell or transfer all or substantially all of its assets (within the meaning of Rev. Proc. 77-37, 1977-2 C.B. 568) in a single transaction or series of transactions, (D) redeem or otherwise repurchase any C-W stock (other than as described in Section 4.05(1)(b) of Rev. Proc. 96-30, 1996-1 C.B. 696), or (E) take any other action or actions (other than the adoption of a stockholder rights plan in customary form) (including the issuance of options to acquire stock of C-W or securities that are convertible into stock of C-W) which in the aggregate (not taking into account the Recapitalization) would have the effect of causing or permitting one or more persons to acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of Section 355(e) of the Code) in C-W, and (ii) prior to the five year anniversary of the Distribution Date, it shall not initiate or support, or permit its stockholders to vote on, any action that would in any way alter the ability of the holders of the Class B Common Stock to (A) elect at least 80% of the members of the Board of Directors of C-W (to the extent, and in the manner set forth in, the Restated Certificate of Incorporation and By-Laws of C-W, as in effect immediately after the consummation of the Recapitalization) or (B) otherwise possess at least 80% of the total combined voting power of all classes of C-W stock entitled to vote (as described in Section 368(c) of the Code), unless prior to taking any such action set forth in the foregoing clauses (i) and (ii), at the election of UNITRIN, either C-W has obtained (and provided to

UNITRIN) a written opinion in form and substance reasonably acceptable to UNITRIN of a nationally recognized law firm reasonably acceptable to UNITRIN and C-W, or UNITRIN has obtained (at the expense of C-W) a supplemental ruling from the IRS, that such action or actions will not result in (1) the Distribution failing to qualify under Section 355(a) of the Code or (2) the C-W shares failing to qualify as qualified property for purposes of Section 355(c)(2) of the Code by reason of Section 355(e) of the Code. UNITRIN agrees to cooperate with C-W in obtaining such opinion or, as the case may be, to use all reasonable efforts in obtaining any such supplemental ruling, including, where appropriate, by providing written representations as to factual events that transpired prior to the Distribution Date.



**ARTICLE 3  
INDEMNIFICATION**

Section 3.1 Indemnification by C-W.

(a) C-W shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the UNITRIN Indemnitees from and against any and all C-W Liabilities or third party allegations of C-W Liabilities.

(b) C-W shall, to the fullest extent permitted by law, indemnify, defend and hold harmless (i) UNITRIN, (ii) each member of the consolidated group of corporations of which UNITRIN is the common parent corporation (within the meaning of Section 1504 of the Code) and (iii) each direct or indirect Subsidiary of UNITRIN (each Person referred to in clauses (ii) and (iii), a "UNITRIN Member") from and against (A) any actual Liability of UNITRIN or any UNITRIN Member (including any actual Liability for Taxes to the extent that, in the absence of any Liability for Taxes resulting from a determination that the Distribution fails to qualify under Section 355(a) of the Code or that the C-W shares fail to qualify as qualified property for purposes of Section 355(c)(2) of the Code by reason of Section 355(e) of the Code, such Liability would otherwise have been reduced or eliminated by a net operating loss deduction (within the meaning of Section 172 of the Code and the Treasury regulations thereunder)), or (B) any Established Liability of any stockholder of UNITRIN (it being understood that any Established Liability of any stockholder of UNITRIN shall be deemed to be an actual Liability of UNITRIN for purposes of determining C-W's indemnification obligation hereunder, regardless of whether such stockholder actually has or pursues a valid claim for such Established Liability against UNITRIN), in each case arising from any inaccuracy in, or failure by C-W to comply with, any representation or undertaking

-20-

made by C-W to the IRS in connection with the request by UNITRIN for the IRS Ruling (other than any representation or undertaking (express or otherwise) contained in Part III.B of UNITRIN's letter request for the IRS Ruling) (referred to herein as a "C-W Failure" (it being understood that a Clause (d) Failure (as defined below) shall not constitute a C-W Failure for purposes of this Article 3)); provided, however, that, notwithstanding the foregoing, C-W shall not indemnify UNITRIN or any UNITRIN Member for any Liability or Established Liability that results solely from a UNITRIN Failure (as defined in Section 3.2(b) hereof) (except to the extent that any such UNITRIN Failure is in respect of a representation based in whole or in part upon information provided by C-W); and provided, further, that if any Liability or Established Liability described in this clause (b) arises as a result of both a C-W Failure and a UNITRIN failure, and each such failure is an independent cause of such Liability or Established Liability, then C-W and UNITRIN shall allocate such Liability or Established Liability between themselves in such proportion as is appropriate to reflect the relative fault of C-W on the one hand and UNITRIN on the other with respect to such Liability or Established Liability.

(c) If C-W (or any of its Subsidiaries) fails to comply with any of its obligations under Section 2.4(a) or (b) above or takes any action or fails to take any action, and such failure to comply, action or omission contributes to a determination that the Distribution fails to qualify under Section 355(a) of the Code or that the C-W shares fail to qualify as qualified property for purposes of Section 355(c)(2) of the Code by reason of Section 355(e) of the Code (each a "355 Failure" (it being understood that a Clause (d) Failure shall not constitute a 355 Failure for purposes of this Article 3)), then C-W shall, to the fullest extent permitted by law, indemnify, defend and hold harmless UNITRIN and each UNITRIN Member from and against (i) any and all federal, state and local Taxes, including any interest, penalties or additions to Tax, imposed upon or incurred by UNITRIN and any UNITRIN Member and (ii) any Established Liability of any stockholder of UNITRIN (it being understood that any Established Liability of any stockholder of UNITRIN shall be deemed to be a UNITRIN Tax Liability (as defined below) for purposes of determining C-W's indemnification obligation hereunder, regardless of whether such stockholder actually has or pursues a valid claim for such Established Liability against UNITRIN), in each case as a result of the failure of the Distribution to qualify under Section 355(a) of the Code or the application of Section 355(e) (any such Tax, interest, penalty or addition to Tax, together with any such Established Liability, a "UNITRIN Tax Liability"); provided, however, that, notwithstanding the foregoing, C-W shall not indemnify UNITRIN or any UNITRIN Member for any UNITRIN Tax Liability that results solely from a UNITRIN Failure (except to the extent that any such UNITRIN Failure is in respect of a representation based in

-21-

whole or in part upon information provided by C-W); and provided, further, that if any UNITRIN Tax Liability described in this clause (c) arises as a result of both a 355 Failure and a UNITRIN Failure, and each such failure is an independent cause of such UNITRIN Tax Liability, then C-W and UNITRIN shall allocate such UNITRIN Tax Liability between themselves in such proportion as is appropriate to reflect the relative fault of C-W on the one hand and UNITRIN on the other with respect to such UNITRIN Tax Liability.

(d) Notwithstanding any other provision of this Agreement:

(i) C-W shall not be required to indemnify and hold harmless, and shall have no liability to, UNITRIN or any UNITRIN Member for any UNITRIN Tax Liability that would not have been imposed or incurred but for the increase in UNITRIN's voting power with respect to Common Stock as a result of the Recapitalization; and

(ii) Subject to the proviso hereto, C-W shall be entitled to rely without limitation on any representations made by UNITRIN in (A) Section 2.3(b)(vi) hereof or (B) its letter request for the IRS Ruling with respect to sales by UNITRIN stockholders of stock or securities of UNITRIN or C-W, and in the event that any such representations are not true, correct and complete in all respects, subject to the proviso hereto,

C-W shall not indemnify UNITRIN or any UNITRIN Member for any UNITRIN Tax Liability that would not have been incurred but for the failure of any such representations to be true, correct and complete in all respects; provided, however, that C-W shall not be entitled to rely on, and will not be relieved of its indemnification obligations hereunder as a result of inaccuracies or failures in, or incompleteness of, the representations made by UNITRIN in its letter request for the IRS Ruling with respect to sales by UNITRIN stockholders of stock or securities of UNITRIN or C-W if, before taking or failing to take any action, C-W has actual knowledge of any such inaccuracy, failure or incompleteness.

The exceptions to C-W's indemnification obligations hereunder that are referred to in subclauses (i) and (ii) of this clause (d) are referred to herein as "Clause (d) Failures."

(e) Any indemnity payment made by C-W pursuant to either clause (b) or (c) above shall be made on an after-tax basis, based on the actual tax position of UNITRIN, the UNITRIN Member or UNITRIN stockholder, as the case may be, in the taxable year such indemnity payment is received and taking into account the deductibility for federal income tax purposes of any state taxes. The aggregate amount to be paid

-22-

by C-W pursuant to its indemnity obligations set forth in clauses (b), (c), (d), (e) and (f) of this Section 3.1 shall not exceed \$135 million.

(f) In the event that C-W and UNITRIN are jointly liable under either clause (b) or (c) above, C-W shall be required to indemnify and pay UNITRIN or a UNITRIN Member, with respect to an Established Liability of a UNITRIN stockholder, for C-W's proportionate share of such Established Liability (if any) only if, and to the extent that, UNITRIN shall have agreed (in form reasonably satisfactory to C-W) to pay such UNITRIN stockholder for UNITRIN's proportionate share of such Established Liability. In the event that UNITRIN does not actually pay such UNITRIN stockholder for UNITRIN's proportionate share of such Established Liability, then UNITRIN will reimburse C-W for any amounts paid by C-W to UNITRIN in respect of C-W's proportionate share of such Established Liability.

#### Section 3.2 Indemnification by UNITRIN.

(a) UNITRIN shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the C-W Indemnitees from and against any and all UNITRIN Liabilities or third party allegations of UNITRIN Liabilities.

(b) UNITRIN shall, to the fullest extent permitted by law, indemnify, defend and hold harmless C-W and each member of the consolidated group of corporations of which C-W is the common parent corporation (within the meaning of Section 1504 of the Code) (each a C-W Member") from and against any actual Liability of C-W or any C-W Member arising from any inaccuracy in, or failure by UNITRIN to comply with, any representation or undertaking made by UNITRIN to the IRS in connection with the request by UNITRIN for the IRS Ruling or pursuant to Section 2.3(b)(vi) hereof (referred to herein as a "UNITRIN Failure"); provided, however, that, notwithstanding the foregoing, UNITRIN shall not indemnify C-W or any C-W Member for any liability that results solely from a C-W Failure or a 355 Failure (except to the extent that any such failure is in respect of a representation based in whole or in part upon information provided by UNITRIN); and provided, further, that if any Liability described in this clause (b) arises as a result of both a UNITRIN Failure and a C-W Failure and/or a 355 Failure, and each such failure is an independent cause of such Liability, then UNITRIN and C-W shall allocate such Liability between themselves in such proportion as is appropriate to reflect the relative fault of UNITRIN on the one hand and C-W on the other with respect to such Liability.

-23-

Section 3.3 Treatment of Payments. UNITRIN agrees to consider in good faith treating for federal income tax purposes any indemnity payments it receives pursuant to this Agreement as payments to which Section 301 of the Code applies.

Section 3.4 Procedures for Indemnification. (a) If (i) a claim or demand is made against C-W, any C-W Indemnitee, any C-W Member, UNITRIN, any UNITRIN Indemnitee or any UNITRIN Member (each, an "Indemnitee") by any person who is not a party to this Agreement (each a "Third Party Claim") as to which such Indemnitee is entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the party which is or may be required pursuant to the terms hereof to make such indemnification (the "Indemnifying Party") in writing, and in reasonable detail, of the Third Party Claim promptly (and in any event within 15 business days) after receipt by such Indemnitee of written notice of the Third Party Claim; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure. Thereafter, the Indemnitee shall deliver to the Indemnifying Party, promptly (and in any event within five business days) after the Indemnitee's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third Party Claim.

If a Third Party Claim is made against an Indemnitee with respect to which a claim for indemnification is made pursuant to Section 3.1 or Section 3.2 hereof, the Indemnifying Party shall be entitled to participate in the defense thereof and, if it so chooses and acknowledges in writing its obligation to indemnify the Indemnitee therefor, to assume the defense thereof with counsel selected by the Indemnifying Party; provided that such counsel is not reasonably objected to by the Indemnitee. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party shall, within 30 days (or sooner if the nature of the Third Party Claim so requires), notify the Indemnitee of its intent to do so, and the Indemnifying Party shall thereafter not be liable to the Indemnitee for legal or other expenses subsequently incurred by the Indemnitee in connection with the defense thereof; provided, that such Indemnitee shall have the right to employ

counsel to represent such Indemnitee if, in such Indemnitee's reasonable judgment, a conflict of interest between such Indemnitee and such Indemnifying Party exists in respect of such claim which would make representation of both such parties by one counsel inappropriate, and in such event the reasonable fees and expenses of such separate counsel shall be paid by such Indemnifying Party. If the Indemnifying Party assumes such defense, the Indemnitee shall have the right to participate in the defense thereof and to employ counsel, subject to the proviso of the preceding sentence, at its own expense, separate

-24-

from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnitee for any period during which the Indemnifying Party has failed to assume the defense thereof. If the Indemnifying Party so elects to assume the defense of any Third Party Claim, all of the Indemnitees shall cooperate with the Indemnifying Party in the defense or prosecution thereof, including by providing or causing to be provided, records and witnesses as soon as reasonably practicable after receiving any request therefor from or on behalf of the Indemnifying Party.

Unless otherwise required by law, in no event will an Indemnitee admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnifying Party's prior written consent (which will not be unreasonably withheld); provided, however, that the Indemnitee shall have the right to settle, compromise or discharge such Third Party Claim without the consent of the Indemnifying Party if the Indemnitee releases the Indemnifying Party from its indemnification obligation hereunder with respect to such Third Party Claim and such settlement, compromise or discharge would not otherwise adversely affect the Indemnifying Party. If the Indemnifying Party acknowledges in writing liability for a Third Party Claim (as between the Indemnifying Party and the Indemnitee), the Indemnifying Party shall be permitted to enter into, and the Indemnitee will agree to, any settlement, compromise or discharge of a Third Party Claim that the Indemnifying Party may recommend and that by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third Party Claim and releases the Indemnitee completely in connection with such Third Party Claim and that would not otherwise adversely affect the Indemnitee; provided, however, that the Indemnitee may refuse to agree to any such settlement, compromise or discharge if the Indemnitee agrees that the Indemnifying Party's indemnification obligation with respect to such Third Party Claim shall not exceed the amount that would be required to be paid by or on behalf of the Indemnifying Party in connection with such settlement, compromise or discharge; and provided further that the Indemnifying Party shall not agree to any other settlement, compromise or discharge of a Third Party Claim not described above without the prior written consent of the Indemnitee, such consent not to be unreasonably withheld. If an Indemnifying Party elects not to assume the defense of a Third Party Claim, or fails to notify an Indemnitee of its election to do so as provided herein, such Indemnitee may compromise, settle or defend such Third Party Claim. In such case, the Indemnifying Party shall be responsible for the cost of such compromise, settlement or defense.

Notwithstanding the foregoing, the Indemnifying Party shall not be

-25-

entitled to assume the defense of any Third Party Claim (and shall be liable for the reasonable fees and expenses of counsel incurred by the Indemnitee in defending such Third Party Claim) if the Third Party Claim seeks an order, injunction or other equitable relief or relief for other than money damages against the Indemnitee which the Indemnitee reasonably determines, after conferring with its counsel, cannot be separated from any related claim for money damages. If such equitable relief or other relief portion of the Third Party Claim can be so separated from that for money damages, the Indemnifying Party shall be entitled to assume the defense of the portion relating to money damages.

(b) In the event any Tax Claim (as defined below) is disposed of pursuant to the provisions of this Section 3.4 or a Final Determination has been made in circumstances that give rise to a Tax Liability or an Established Liability on the part of UNITRIN, any UNITRIN Member or any UNITRIN stockholder, as the case may be, then C-W shall pay to UNITRIN all amounts in respect of any Tax Claim within twenty (20) business days after such Tax Claim is disposed of or such Final Determination has been made. For purposes of this Section 3.4(b), (i) "Tax Claim" shall mean any notice of deficiency, proposed adjustment, adjustment, assessment, audit, examination, suit, dispute or other written claim which is commenced or initiated against UNITRIN, any UNITRIN Member or any UNITRIN stockholder with respect to Taxes that are attributable to the Recapitalization or Distribution and which result from any act or acts of C-W or its Subsidiaries described in Section 2.4 of this Agreement or the breach by C-W of any representation or warranty set forth in this Agreement and (ii) "Final Determination" shall mean (1) the entry of a decision of a court of competent jurisdiction at such time as an appeal may no longer be taken from such decision or (2) the execution of a closing agreement or its equivalent between the particular taxpayer and the particular relevant taxing authority.

Section 3.5 Remedies Not Exclusive. The remedies provided in this Article 3 shall be cumulative and shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

Section 3.6 Subrogation. In the event of payment by an Indemnifying Party to any Indemnitee in connection with any Third Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right or claim relating to such Third Party Claim. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right or claim.

-26-

Section 3.7 Indemnification Payments. Indemnification required by this Article 3 shall be made by periodic payments of the amount thereof

during the course of the investigation or defense, as and when bills are received or loss, liability, claim, damage or expense is incurred.

## ARTICLE 4 COVENANTS

### Section 4.1 Access to Information.

(a) Other than in circumstances in which indemnification is sought pursuant to Article 3 (in which event the provisions of such Article will govern), from and after the Distribution Date, each of C-W and UNITRIN shall afford to the other and its authorized accountants, counsel and other designated representatives reasonable access during normal business hours, subject to appropriate restrictions for classified, privileged or confidential information, to the personnel, properties, books and records of such party and its Subsidiaries to the extent such access is reasonably required by the other party in order to perform its obligations under this Agreement or the Recapitalization Agreement or to comply with such party's financial, tax and other reporting obligations.

(b) A party providing information or access to information to the other party under this Article 4 shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses, as may be reasonably incurred in providing such information or access to information.

(c) For a period of two years following the Distribution Date, C-W shall provide to UNITRIN: (i) promptly following the date (the "Target Date"), as of which there has been an aggregate change in the outstanding equity or capital structure of C-W (measured during the period beginning on the Distribution Date and ending on the Target Date and not taking into account the Recapitalization or transfers of shares by C-W stockholders, unless C-W participates in such transfers or such transfers are reported on a Schedule 13D or 13G under the Exchange Act) that accounts for at least 10% of the total outstanding equity of C-W as of the Distribution Date written notice of such change and (ii) after the Target Date, reasonably detailed reports delivered promptly following the occurrence of each additional change or changes (if any) in the

-27-

outstanding equity or capital structure of C-W that, individually or in the aggregate (not taking into account the Recapitalization or transfers of shares by C-W stockholders, unless C-W participates in such transfers or such transfers are reported on a Schedule 13D or 13G under the Exchange Act), account for at least 5% of the total outstanding equity of C-W as of the Distribution Date.

Section 4.2 Confidentiality. Each of C-W and its Subsidiaries and UNITRIN and its Subsidiaries shall keep, and shall cause its employees, consultants, advisors and agents to keep, confidential all information concerning the other parties in its possession, its custody or under its control (except to the extent that (a) such information is then in the public domain through no fault of such party, (b) such information has been lawfully acquired from other sources by such party or (c) this Agreement or the Recapitalization Agreement or any other agreement entered into pursuant hereto or thereto permits the use or disclosure of such information) and each party shall not (without the prior written consent of the other) otherwise release or disclose such information to any other Person, except such party's auditors and attorneys, unless compelled to disclose such information by judicial or administrative process or unless such disclosure is required by law and such party has used all reasonable efforts to consult with the other affected party or parties prior to such disclosure, and in such case shall exercise all reasonable efforts to obtain reliable assurance that such information will be accorded confidential treatment.

### Section 4.3 No Solicitation.

(a) Subject to Sections 4.3(b) and 4.3(c), each of UNITRIN and C-W agree not to directly or indirectly, through any officer, director, employee, representative, securityholder or agent solicit, initiate or encourage any inquiries, offers or proposals or any indication of interest or the commencement of negotiations or continue any current negotiations or conduct any negotiations or enter into any agreement or provide any nonpublic information regarding or in connection with any proposal for the acquisition by any third party of any shares of capital stock of C-W from C-W or UNITRIN (other than issuances of common stock by C-W pursuant to employee stock plans in the ordinary course of business) or the acquisition of, or business combination with, C-W through any other means including a merger or purchase of assets (an "Acquisition Proposal") until the earlier to occur of the termination of this Agreement or the time at which the Distribution is consummated; provided, however, that UNITRIN and C-W may respond to any unsolicited inquiries or proposals solely to indicate that it is bound by this Section 4.3. If either of C-W or UNITRIN receives any such inquiry or proposal, then C-W or UNITRIN, as the case may be, shall inform the

-28-

other of the terms and conditions, if any, of such inquiry or proposal and the identity of the Person making the proposal and shall keep such party promptly advised of all further communications relating to such inquiry or proposal.

(b) UNITRIN shall be relieved of its obligations under Section 4.3(a) (in the case of clause (iii) below, only to the extent set forth therein) if:

(i) the Board of Directors of C-W shall or shall resolve to (A) not recommend, or withdraw its approval or recommendation of, the Recapitalization, the Recapitalization Agreement, this Agreement or any of the transactions contemplated thereby or hereby, (B) modify any such approval or recommendation in a manner adverse to UNITRIN or (C) approve, recommend or enter into any agreement for any

Acquisition Proposal;

(ii) C-W breaches or fails to comply with any of its material obligations set forth in this Agreement or the Recapitalization Agreement and fails to cure such breach or failure within 30 days following notice from UNITRIN; or

(iii) after receipt of a bona fide written Acquisition Proposal, the Board of Directors of UNITRIN in good faith determines, after consultation with its outside counsel, that it would be inconsistent with the Board's fiduciary duties to stockholders of UNITRIN not to commence discussions or negotiations with, or provide nonpublic information (other than nonpublic information with respect to C-W) to the person making such Acquisition Proposal; provided, however, that UNITRIN shall only be released from its obligations under Section 4.3(a) pursuant to this Section 4.3(b)(iii) with respect to such Acquisition Proposal.

(c) C-W shall be relieved of its obligations under Section 4.3(a) (to the extent specifically set forth in this Section 4.3(c)) if after receipt of a bona fide written Acquisition Proposal, the Board of Directors of C-W in good faith determines, after consultation with its outside counsel, that it would be inconsistent with the Board's fiduciary duties to stockholders of C-W not to commence discussions or negotiations with, or provide nonpublic information to, the person making such Acquisition Proposal; provided, however, that C-W shall only be released from its obligations under Section 4.3(a) pursuant to this Section 4.3(c) with respect to such Acquisition Proposal.

Section 4.4 Certain Other Agreements. During the period commencing on the date hereof and continuing until the earlier of the termination of this Agreement or the consummation of the Recapitalization, UNITRIN hereby agrees that it shall not, and that

-29-

it shall cause each of its Affiliates not to, without the prior approval of the Board of Directors of C-W, directly or indirectly, (a) make, or in any way participate in, any "solicitation" of "proxies" (as such terms are defined or used in Regulation 14A under the Exchange Act) to consent or vote or seek to advise or influence any Person with respect to the voting of any shares of Common Stock; (b) form, join or in any way participate in any Group (other than with respect to its Affiliates) with respect to any of the shares of Common Stock; (c) otherwise act, either alone or in concert with others, to seek control of C-W, including by submitting any written consent in furtherance of the foregoing or calling a special meeting of C-W stockholders; (d) publicly disclose any intention, proposal, plan or arrangement with respect to any foregoing; or (e) make any demand, request or proposal to amend, waive or terminate any provision of this Section 4.4.

Section 4.5 Public Announcements. Each of UNITRIN and C-W agrees that no public release or announcement concerning the Recapitalization or the Distribution shall be issued by either party without the prior written consent of the other (which shall not be unreasonably withheld), except as such release or announcement may be required by law or the rules or regulations of any United States securities exchange or the Nasdaq Stock Market, in which case the party required to make the release or announcement shall use all reasonable efforts to allow each other party reasonable time to comment on each release or announcement in advance of such issuance.

Section 4.6 Required Consents. Each of UNITRIN and C-W shall use all reasonable efforts to obtain all of the consents, waivers or authorizations required in connection with the completion of the Recapitalization and the Distribution, including, without limitation, (a) any material governmental approvals and consents necessary to consummate the Distribution and the other transactions contemplated hereby and by the Recapitalization Agreement and (b) those consents listed on Schedule 4.6 (collectively, the "Required Consents").

Section 4.7 Litigation Cooperation. Each of UNITRIN and C-W shall use reasonable efforts to make available to the other party, upon written request and at the expense of the other party, its officers, directors, employees and agents as witnesses to the extent such Persons may reasonably be required in connection with any Action arising out of (a) the business of such other party and its predecessors, if any, in which the requesting party may from time to time be involved; provided that such Action does not involve a claim by either of UNITRIN or C-W against the other or (b) the matters contained in Section 2.4 and Article 3 hereof.

-30-

Section 4.8 Other Matters. Each of UNITRIN and C-W shall negotiate in good faith to execute prior to the Distribution Date such further certificates, agreements and other documents which are reasonably necessary to consummate or implement the transactions contemplated hereby and by the Recapitalization Agreement.

## **ARTICLE 5 MISCELLANEOUS**

Section 5.1 Complete Agreement; Construction. This Agreement and the Recapitalization Agreement, including the Exhibits and Schedules hereto and thereto, shall constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

Section 5.2 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the parties and delivered to the other parties.

Section 5.3 Survival of Agreements. Except as otherwise contemplated by this Agreement, all covenants, representations, warranties and agreements of the parties contained in this Agreement shall survive the Distribution Date.

Section 5.4 Expenses. Except as otherwise set forth in this Agreement or in the Recapitalization Agreement, all costs and expenses incurred in connection with the preparation, execution, delivery and implementation of this Agreement and the Recapitalization Agreement, and the Distribution and the other transactions contemplated hereby and thereby shall be charged to and paid by the party incurring such costs and expenses.

Section 5.5 Notices. All notices and other communications hereunder shall be in writing, shall be effective when received, and shall be duly given if delivered by (a) hand delivery, (b) U.S. mail, postage prepaid, for first class delivery, (c) Federal Express or similar carrier, freight prepaid, for next business day delivery, or (d) electronic transmission, provided that confirmation of transmission and receipt is confirmed, to each party at the following respective addresses (or at such other address for a party as shall be specified by like notice):

-31-

**To UNITRIN:**

**UNITRIN, Inc.**

One East Wacker Drive  
Chicago, Illinois 60601  
Fax: (312) 661-4690  
Attn: Chief Financial Officer

with a copy to:

**UNITRIN, Inc.**

One East Wacker Drive  
Chicago, Illinois 60601  
Fax: (312) 661-4941  
Attn: General Counsel

and with a copy to:

Skadden, Arps, Slate, Meagher & Flom (Illinois) 333 West Wacker Drive  
Suite 2100  
Chicago, Illinois 60601  
Fax: (312) 407-0411  
Attn: Brian W. Duwe, Esq.

**To C-W:**

**CURTISS-WRIGHT CORPORATION**

1200 Wall Street West  
Lyndhurst, New Jersey 07071  
Fax: (201) 896-4021  
Attn: General Counsel

-32-

with a copy to:

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017  
Fax: (212) 455-2502  
Attn: Caroline B. Gottschalk, Esq.

Section 5.6 Waivers. The failure of any party to require strict performance by any other party of any provision in this Agreement will not waive or diminish that party's right to demand strict performance thereafter of that or any other provision hereof.

Section 5.7 Amendments. This Agreement may not be modified or amended except by an agreement in writing signed by each of the parties hereto.

Section 5.8 Assignment. This Agreement shall not be assignable, in whole or in part, directly or indirectly, by any party hereto without the prior written consent of the other party hereto, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void.

Section 5.9 Successors and Assigns. The provisions to this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns.

Section 5.10 Termination.

(a) Prior to the filing of the Certificate of Merger, this Agreement may be terminated:

(i) by mutual written consent of UNITRIN and C-W;

(ii) by either UNITRIN or C-W if the other party is in breach of any of its obligations or representations and warranties herein or under the Recapitalization Agreement, which breach would result in a Material Adverse Effect on such party after giving effect to the Distribution, and such other party fails to cure such breach within 15 days following notice;

(iii) by C-W if, following receipt of an Acquisition Proposal, the Board of Directors of C-W is required by its fiduciary duties to stockholders of C-W to

-33-

terminate this Agreement or the Recapitalization Agreement and accept such Acquisition Proposal; provided that in such event C-W shall pay the reasonable documented out-of-pocket fees and expenses incurred by UNITRIN in connection with this Agreement, the Recapitalization Agreement and the transactions contemplated hereby and thereby in an aggregate amount of up to \$2.3 million, but only to the extent that UNITRIN does not agree to, or otherwise vote in favor of, such Acquisition Proposal;

(iv) by UNITRIN if (A) the Board of Directors of C-W shall or shall resolve to (I) not recommend, or withdraw its approval or recommendation of, the Recapitalization, the Recapitalization Agreement, this Agreement or any of the transactions contemplated thereby or hereby,

(II) modify any such approval or recommendation in a manner adverse to UNITRIN or (III) approve, recommend or enter into an agreement for any Acquisition Proposal, (B) the stockholders of C-W shall not approve the Recapitalization or (C) following receipt of an Acquisition Proposal, the Board of Directors of UNITRIN is required by its fiduciary duties to stockholders of UNITRIN to terminate this Agreement and accept such Acquisition Proposal; provided that (I) in the case of clause (A) above, C-W shall pay the reasonable documented out-of-pocket fees and expenses incurred by UNITRIN in connection with this Agreement, the Recapitalization Agreement and the transactions contemplated hereby or thereby in an aggregate amount of up to \$2.3 million and (II) in the case of clause (C) above, UNITRIN shall pay the reasonable documented out-of-pocket fees and expenses incurred by C-W in connection with this Agreement, the Recapitalization Agreement and the transactions contemplated hereby and thereby in an aggregate amount of up to \$2.3 million; or

(v) by either UNITRIN or C-W if the Recapitalization is not consummated by June 30, 2001; provided that this right shall not be available to any party that is in material breach of its obligations under this Agreement or the Recapitalization.

(b) This Agreement shall terminate automatically without any action on the part of C-W or UNITRIN in the event the Recapitalization Agreement is terminated in accordance with its terms.

(c) Except as specifically set forth in clause (a) above and for any liability in respect of any breach of this Agreement or the Recapitalization Agreement by either party, no party shall have any liability of any kind to any other party or any other person as a result of

-34-

the termination of this Agreement. After the filing of the Certificate of Merger relating to the Recapitalization, this Agreement may not be terminated except by an agreement in writing signed by both parties.

Section 5.11 Subsidiaries. Each of the parties hereto shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such party or by any entity that is contemplated to be a Subsidiary of such party on or after the Distribution Date (it being understood that C-W and its Subsidiaries shall not be considered a Subsidiary of UNITRIN).

Section 5.12 Third Party Beneficiaries. Except as provided in Article 3 relating to Indemnitees, this Agreement is solely for the benefit of the parties hereto and should not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 5.13 Title and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended

to be a part of or to affect the meaning or interpretation of this Agreement.

Section 5.14 Exhibits and Schedules. The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

Section 5.15 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF DELAWARE.

Section 5.16 Consent to Jurisdiction. Each of the parties irrevocably submits to the exclusive jurisdiction of any state court of the State of Delaware and the United States District Court for the District of Delaware, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the parties agrees to commence any action, suit or proceeding relating hereto in such Delaware court. Each of the parties further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth above shall be effective service of process for any action, suit or proceeding in Delaware with respect to any matters to which it has submitted to jurisdiction in this Section 5.16. Each of the parties irrevocably and unconditionally waives any objection

-35-

to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in such Delaware court and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 5.17 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby; provided, however, that the consummation of the Recapitalization is conditioned upon and is not severable from the Distribution, and that the Distribution is not severable from the Recapitalization. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

-36-

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first above written.

**UNINTRIN, INC**

*By: /s/ Eric J. Draut*

-----  
*Name: Eric J. Draut*

*Title: Senior Vice President and  
Chief Financial Officer*

**CURTISS-WRIGHT CORPORATION**

*By: /s/ Martin R. Benante*

-----  
*Name: Martin R. Benante*

*Title: Chairman and Chief Executive Officer*



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**Agreement and Plan of Merger**

by and among

**Curtiss-Wright Corporation**

**Unitrin, Inc.**

**and CW Disposition Company**

dated as of November 6, 2000

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TABLE OF CONTENTS

ARTICLE 1	
THE MERGER.....	A-2
Section 1.1 The Merger.....	A-2
Section 1.2 Effect on Capital Stock at the Effective Time.....	A-3
Section 1.3 Share Certificates.....	A-3
ARTICLE 2	
THE SURVIVING CORPORATION.....	A-4
Section 2.1 Certificate of Incorporation.....	A-4
Section 2.2 By-Laws.....	A-5
Section 2.3 Directors and Officers.....	A-5
ARTICLE 3	
COVENANTS AND REPRESENTATIONS AND WARRANTIES.....	A-6
Section 3.1 Stockholders Meeting.....	A-6
Section 3.2 Filings; Other Actions.....	A-6
Section 3.3 Reasonable Efforts.....	A-8
Section 3.4 Representations and Warranties of the Company.....	A-9
Section 3.5 Representations and Warranties of UNITRIN and Merger Sub.....	A-10
ARTICLE 4	
CONDITIONS TO THE MERGER.....	A-11
Section 4.1 Conditions to the Obligation of the Company.....	A-11
Section 4.2 Conditions to the Obligations of UNITRIN and Merger Sub.....	A-13
ARTICLE 5	
TERMINATION.....	A-15
Section 5.1 Termination.....	A-15
Section 5.2 Effect of Termination.....	A-16
ARTICLE 6	
MISCELLANEOUS.....	A-16
Section 6.1 Notices.....	A-16
Section 6.2 Successors and Assigns.....	A-18
Section 6.3 Governing Law.....	A-18
Section 6.4 Counterparts; Effectiveness.....	A-18
Section 6.5 Amendments.....	A-18

-i-

AGREEMENT AND PLAN OF MERGER, dated as of November 6, 2000 (this "Agreement"), among CURTISS-WRIGHT CORPORATION, a Delaware corporation (the "Company"), UNITRIN, INC., a Delaware corporation ("UNITRIN"), and CW DISPOSITION COMPANY, a Delaware corporation and a wholly owned subsidiary of UNITRIN ("Merger Sub").

WHEREAS, UNITRIN owns all the issued and outstanding shares of common stock, par value \$.01 per share, of Merger Sub ("Merger Sub Common Stock"), and 4,382,400 shares (approximately 44% of the total number of issued and outstanding shares) of common stock, par value \$1.00 per share, of the Company ("Common Stock");

WHEREAS, prior to the effectiveness of the Merger (as defined below), UNITRIN plans to contribute to Merger Sub 4,382,400 shares (approximately 44% of the total number of issued and outstanding shares) of Common Stock (the "Contributed Shares");

WHEREAS, the Company and UNITRIN desire that Merger Sub merge with and into the Company (the "Merger"), upon the terms and subject to the conditions set forth in this Agreement in accordance with the General Corporation Law of the State of Delaware (the "DGCL"), pursuant to which all the issued and outstanding shares of Merger Sub Common Stock shall be converted into shares of a new Class B common stock,

par value \$1.00 per share, of the Company ("Class B Common Stock"), and all the issued and outstanding shares of Common Stock (other than the Contributed Shares held by Merger Sub, which shall be canceled with no securities or other consideration issued in exchange therefor) shall remain issued and outstanding;

WHEREAS, UNITRIN has agreed, subject to certain conditions, to distribute all the shares of Class B Common Stock, on a pro rata basis, to the holders of the common stock of UNITRIN promptly following consummation of the Merger (the "Distribution"), pursuant to the terms and conditions of a Distribution Agreement entered into between the Company and UNITRIN dated as of the date hereof (the "Distribution Agreement"), which provides for the Distribution and certain other matters;

WHEREAS, the Boards of Directors of the Company and Merger Sub by resolutions duly adopted have approved the terms, and declared the advisability, of this Agreement and of the Merger, and the Company has directed the submission of this Agreement to its stockholders for adoption; and

WHEREAS, the Merger is intended to constitute a reorganization within the meaning of Section 368(a)(1)(E) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE in consideration of the premises and the mutual agreements and provisions herein contained, the parties hereto agree as follows:

## **ARTICLE 1 THE MERGER**

### Section 1.1 The Merger.

(a) Upon the terms and subject to the conditions of this Agreement, at the Effective Time (as defined below), Merger Sub shall be merged with and into the Company in accordance with the DGCL, whereupon the separate corporate existence of Merger Sub shall cease, and the Company shall be the surviving corporation (the "Surviving Corporation").

(b) Following satisfaction or waiver of all conditions to the Merger, but only on the Distribution Date (as defined in the Distribution Agreement), the Company shall file a Certificate of Merger (the "Certificate of Merger") with the Secretary of State of the State of Delaware and make all other filings or recordings required by the DGCL in connection with the Merger. The Merger shall become effective at such time as the Certificate of Merger is duly filed with the Secretary of State of the State of Delaware or at such later time as is specified in the Certificate of Merger (the "Effective Time").

(c) At and after the Effective Time, the Merger shall have the effects set forth in the DGCL. Without limiting the foregoing and subject thereto, from and after the Effective Time, the Surviving Corporation shall possess all the rights, privileges, powers and franchises and be subject to all the restrictions, disabilities and duties of the Company and Merger Sub, all as provided under the DGCL.

## A-2

### Section 1.2 Effect on Capital Stock at the Effective Time. At the Effective Time:

(a) All the shares of Merger Sub Common Stock outstanding immediately prior to the Effective Time shall be converted in the aggregate into and become 4,382,400 fully paid and non-assessable shares of Class B Common Stock of the Surviving Corporation and shall have the rights and privileges as set forth in the Surviving Corporation Certificate of Incorporation (as defined in Section 2.1).

(b) Each of the Contributed Shares shall automatically be canceled and retired and shall cease to exist, and no stock of the Surviving Corporation or other consideration shall be delivered in exchange therefor.

(c) Each share of Common Stock outstanding immediately prior to the Effective Time (other than shares to be canceled in accordance with Section 1.2(b)) shall remain issued and outstanding, and each share of Common Stock that immediately prior to the Effective Time was held in the treasury of the Company shall remain in the treasury of the Company and, in each case, shall have the rights and privileges as set forth in the Surviving Corporation Certificate of Incorporation (as defined in Section 2.1).

### Section 1.3 Share Certificates.

(a) As soon as practicable after the Effective Time:

(i) the Surviving Corporation shall deliver, or cause to be delivered, to UNITRIN a number of certificates issued in the names of such persons, in each case, as UNITRIN shall direct, representing in the aggregate 4,382,400 shares of Class B Common Stock of the Surviving Corporation which UNITRIN has the right to receive upon conversion of shares of Merger Sub Common Stock pursuant to the provisions of Section 1.2 (a) hereof;

(ii) the Surviving Corporation shall cancel the share certificate or certificates that immediately prior to the Effective Time represented the shares of Common Stock owned directly by Merger Sub; and

(iii) the share certificates that immediately prior to the Effective Time represented shares of Common Stock that remain issued and outstanding or in the treasury of the Company pursuant to Section 1.2(c) hereof shall not be exchanged and shall continue to represent an equal number of shares of Common Stock of the

A-3

Surviving Corporation without physical substitution of share certificates of the Surviving Corporation for existing share certificates of the Company.

(b) Any dividend or other distribution declared or made with respect to any shares of capital stock of the Company, whether the record date for such dividend or distribution is before or after the Effective Time, shall be paid to the holder of record of such shares of capital stock on such record date, regardless of whether such holder has surrendered its certificates representing Common Stock or received certificates representing Class B Common Stock pursuant to Section 1.3(a)(i).

## **ARTICLE 2 THE SURVIVING CORPORATION**

### Section 2.1 Certificate of Incorporation.

(a) In the event the adoption of this Agreement and the Governance Provisions (as defined below) is approved by the stockholders of the Company at the Stockholders Meeting (as defined below), at the Effective Time the Restated Certificate of Incorporation of the Company as in effect immediately prior to the Effective Time shall be amended so as to read in its entirety as set forth in Exhibit A-1(a) hereto and as so amended shall be the Restated Certificate of Incorporation of the Surviving Corporation.

(b) In the event the adoption of the Governance Provisions is not approved, but the adoption of this Agreement is approved, by the stockholders of the Company at the Stockholders Meeting, and the Company waives the condition to its obligation to consummate the Merger set forth in Section 4.1(b) hereof, at the Effective Time the Restated Certificate of Incorporation of the Company as in effect immediately prior to the Effective Time shall be amended so as to read in its entirety as set forth in Exhibit A-1(b) hereto and as so amended shall be the Restated Certificate of Incorporation of the Surviving Corporation.

(c) The Restated Certificate of Incorporation of the Surviving Corporation that becomes effective pursuant to either Section 2.1(a) or 2.1(b) hereof is herein referred to as the "Surviving Corporation Certificate of Incorporation."

A-4

### Section 2.2 By-Laws.

(a) In the event the adoption of this Agreement and the Governance Provisions is approved by the stockholders of the Company at the Stockholders Meeting, at the Effective Time the By-Laws of the Company as in effect immediately prior to the Effective Time shall be amended so as to read in their entirety as set forth in Exhibit A-1(c) hereto and as so amended shall be the By-Laws of the Surviving Corporation.

(b) In the event the adoption of the Governance Provisions is not approved, but the adoption of this Agreement is approved, by the stockholders of the Company at the Stockholders Meeting, and the Company waives the condition to its obligation to consummate the Merger set forth in Section 4.1(b) hereof, at the Effective Time the By-Laws of the Company as in effect immediately prior to the Effective Time shall be amended so as to read in their entirety as set forth in Exhibit A-1(d) hereto and as so amended shall be the By-Laws of the Surviving Corporation.

(c) The By-Laws of the Surviving Corporation as amended pursuant to either Section 2.2(a) or 2.2(b) hereof are herein referred to as the "Surviving Corporation By-Laws."

### Section 2.3 Directors and Officers.

(a) The Surviving Corporation's board of directors shall consist of 8 members. From and after the Effective Time, until the earlier of their removal or resignation or until their successors are duly elected or appointed and qualified in accordance with applicable law, the directors of the Surviving Corporation shall consist of the directors of the Company in office at the Effective Time. Each such director shall be designated to serve as a Director or a Class B Director (each as defined in the Surviving Corporation Certificate of Incorporation), such designation to be mutually agreed between UNITRIN and the Company and disclosed in the Proxy Statement (as defined below).

(b) In the event the adoption of the Governance Provisions is approved by the stockholders of the Company at the Stockholders Meeting, at the Effective Time the directors of the Surviving Corporation shall be divided into three classes pursuant to the Surviving Corporation Certificate

of Incorporation, and each such director shall be designated to serve as a Class I Director, Class II Director or Class III Director (each as

A-5

defined in the Surviving Corporation Certificate of Incorporation), such designation to be disclosed in the Proxy Statement.

(c) From and after the Effective Time, until the earlier of their removal or resignation or until their successors are duly appointed and qualified in accordance with applicable law and the Surviving Corporation By-Laws, the officers of the Company shall be the officers of the Surviving Corporation.

### **ARTICLE 3 COVENANTS AND REPRESENTATIONS AND WARRANTIES**

**Section 3.1 Stockholders Meeting.** The Company shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its stockholders (the "Stockholders Meeting") for the purpose of considering, as two separate proposals: (a) the adoption of this Agreement; and (b) the approval of amendments to the Company's Restated Certificate of Incorporation to be effected by the Merger, if so approved, providing for, among other things, (i) the proposed classified Board, (ii) the elimination of the stockholders' ability to act by written consent and to call a special meeting, (iii) the requirement of a supermajority vote for (A) stockholders to amend the Surviving Corporation By-Laws and (B) any amendment to the Surviving Corporation Certificate of Incorporation that would affect the Governance Provisions, (iv) the implementation of limits on Board size and (v) the ability to fill Board vacancies and newly created directorships, all as set forth in Exhibit A-1(a) hereto (the "Governance Provisions"), to become effective solely upon effectiveness of the Merger. The Company shall, through its Board of Directors, recommend to its stockholders adoption of this Agreement and shall not withdraw, change or modify such recommendation; provided, however, that the Company's Board of Directors may withdraw, change or modify such recommendation if it determines in good faith, after consultation with outside counsel, that it would be inconsistent with the Board's fiduciary duties to the stockholders of the Company not to withdraw, change or modify such recommendation.

**Section 3.2 Filings; Other Actions.**

(a) Subject to the provisions of this Agreement and the Distribution Agreement, the Company shall prepare and file with the Securities and Exchange Commission (the "SEC") a proxy statement (the "Proxy Statement") for the solicitation of proxies in favor of (i) the adoption of this Agreement; and (ii) the approval of the Governance Provisions as amendments to the Company's Restated Certificate of

A-6

Incorporation to become effective solely upon the effectiveness of the Merger. The Company shall not propose to its stockholders the adoption of the Governance Provisions as independent amendments to the Company's Restated Certificate of Incorporation, but only as amendments to become effective solely upon the effectiveness of the Merger. The Company shall use all reasonable efforts to have the Proxy Statement cleared by the SEC for mailing in definitive form as promptly as practicable after such filing. The Company and UNITRIN shall cooperate with each other in the preparation of the Proxy Statement and any amendment or supplement thereto, and the Company shall notify UNITRIN of the receipt of any comments of the SEC with respect to the Proxy Statement and of any requests by the SEC for any amendment or supplement thereto or for additional information and shall provide to UNITRIN promptly copies of all correspondence between the SEC and the Company or any of its advisors with respect to the Proxy Statement. The Company shall give UNITRIN and its counsel appropriate advance opportunity to review and comment upon the Proxy Statement and all responses to requests for additional information by, and replies to comments of, the SEC, and shall incorporate therein any reasonable comments UNITRIN may deliver to the Company with respect thereto, before such Proxy Statement, response or reply is filed with or sent to the SEC. The Company agrees to use all reasonable efforts, after consultation with UNITRIN and its advisors, to respond promptly to all such comments of, and requests by, the SEC and to cause the Proxy Statement to be mailed to the holders of the Common Stock entitled to vote at the Stockholders Meeting as soon as reasonably possible following the execution hereof. UNITRIN shall provide the Company such information concerning the business and affairs of UNITRIN and Merger Sub as is reasonably required for inclusion in the Proxy Statement.

(b) Each of the Company and UNITRIN shall promptly, and in any event within fifteen business days after the execution and delivery of this Agreement, make all filings or submissions as are required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), and any other applicable law.

(c) Each of the Company and UNITRIN agrees promptly to furnish to the other all copies of written communications (and to advise one another of the substance of all material oral communications) received by it, or any of its affiliates or representatives, from, or delivered by any of the foregoing to, any federal, state, local or international court, commission, governmental body, agency, authority, tribunal, board or other governmental entity (each a "Governmental Entity") in respect of the transactions contemplated hereby.

A-7

(d) At the Stockholders' Meeting, UNITRIN agrees to vote, or cause to be voted, all shares of Common Stock owned by it and any of its subsidiaries or affiliates in favor of the adoption of this Agreement and the approval of the Governance Provisions.

(e) As soon as reasonably practicable following execution of this Agreement, UNITRIN, as the sole stockholder of Merger Sub, shall execute and deliver to Merger Sub in accordance with Section 228 of the DGCL a written consent to adoption of this Agreement.

Section 3.3 Reasonable Efforts. Upon the terms and subject to the conditions set forth in this Agreement, each of the parties hereto agrees to use all reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to obtain the adoption of this Agreement and the approval of the Governance Provisions by the stockholders of the Company as contemplated by Sections 4.1(a), 4.1(b) and 4.2(a) hereof and to consummate, as soon as practicable following such approval, the Merger and the other transactions contemplated by this Agreement and the Distribution Agreement, including, but not limited to (a) the obtaining of all necessary actions, waivers, consents and approvals from all Governmental Entities and the making of all necessary registrations and filings (including filings with Governmental Entities) and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by, any Governmental Entity (including those in connection with the HSR Act), (b) the obtaining of all necessary consents, approvals or waivers from third parties, (c) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement, the Distribution Agreement or the consummation of the transactions contemplated hereby or thereby, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Entity with respect to the Merger, this Agreement or the Distribution Agreement vacated or reversed, (d) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement and the Distribution Agreement and (e) causing all conditions to the parties' obligations to consummate (i) the Merger set forth in Article 4 hereof and (ii) the Distribution set forth in Section 2.1(b) of the Distribution Agreement to be satisfied. The Company and UNITRIN, upon the other's request, shall provide all such information reasonably necessary to accomplish the foregoing concerning the party's business and affairs to the other party.

#### A-8

Section 3.4 Representations and Warranties of the Company. The Company hereby represents and warrants to UNITRIN and Merger Sub that:

(a) the Company's Board of Directors has approved and declared advisable the Merger, this Agreement, the Distribution Agreement and the transactions contemplated hereby and thereby, has determined that the Merger and the other transactions contemplated by this Agreement and the Distribution Agreement are in the best interests of the stockholders of the Company and, subject to Section 3.1 hereof, has recommended that the stockholders of the Company vote in favor of the adoption of this Agreement;

(b) the Proxy Statement, the form of proxy and any other solicitation materials used in connection therewith and any oral solicitations of proxies made by the Company shall not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading or omit any statement necessary to correct any statement in any earlier communication with respect to any solicitation of a proxy for any of the matters to be voted upon at the Stockholders Meeting which has become false or misleading, except that no representation or warranty is made by the Company with respect to information relating to UNITRIN or Merger Sub that is provided by UNITRIN for inclusion in the Proxy Statement or any such other proxy material or oral solicitation;

(c) this Agreement has been duly executed and delivered by the Company and constitutes the valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing; and

(d) subject to the changes in the Company's capitalization contemplated by this Agreement, the capitalization of the Company is as follows:

(i) 22,500,000 authorized shares of Common Stock of which 10,014,161 shares were outstanding at the close of business on October 16, 2000;

(ii) 4,984,149 shares of Common Stock which are held in the treasury of the Company as the date of this Agreement;

#### A-9

(iii) 650,000 authorized shares of preferred stock of which zero (0) shares are outstanding on the date of this Agreement; and

(iv) no shares of any other class or series of capital stock are authorized, issued or outstanding.

Section 3.5 Representations and Warranties of UNITRIN and Merger Sub. Each of UNITRIN and Merger Sub jointly and severally represent and warrant to the Company that:

(a) the Board of Directors of each of UNITRIN and Merger Sub, as applicable, has approved and declared advisable the Merger, this Agreement, the Distribution Agreement and the transactions contemplated hereby and thereby, and, other than as contemplated by Section 3.2 (e) hereof, no stockholder approval or other further corporate action will be required on the part of UNITRIN or Merger Sub;

(b) this Agreement has been duly executed and delivered by UNITRIN and Merger Sub and constitutes the valid and binding agreement of each

such corporation, enforceable against UNITRIN and Merger Sub in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing;

(c) UNITRIN owns all outstanding capital stock of Merger Sub free and clear of any claims, liens or encumbrances and no other person holds any capital stock of Merger Sub nor has any right to acquire any equity interest in Merger Sub;

(d) as of immediately prior to the Effective Time, all of the Contributed Shares shall be owned beneficially and of record by Merger Sub, free and clear of any claims, liens or encumbrances; and

(e) Merger Sub was formed by UNITRIN solely for the purposes of effectuating the Merger upon the terms and subject to the conditions of this Agreement; Merger Sub has no employees, will have no assets other than the Contributed Shares, has not entered into any contract, agreement or other commitment with any person except for customary corporate organizational matters or as specifically set forth in this

A-10

Agreement, and has no liabilities, commitments or obligations of any kind (known or unknown, fixed or contingent), except for those obligations specifically set forth in this Agreement.

#### **ARTICLE 4 CONDITIONS TO THE MERGER**

Section 4.1 Conditions to the Obligation of the Company. The obligation of the Company to consummate the Merger is subject to the satisfaction (or waiver by the Company, except that the condition set forth in Section 4.1(a) may not be waived) of the following conditions:

(a) a proposal to adopt this Agreement shall have been approved by the holders of (i) a majority of the Common Stock outstanding and entitled to vote thereon and (ii) a majority of the shares of Common Stock (other than shares held of record or beneficially owned by UNITRIN) present in person or by proxy at the Stockholders Meeting and voting on such proposal;

(b) a proposal to approve the Governance Provisions shall have been approved by a majority of the Common Stock outstanding and entitled to vote thereon;

(c) the waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have expired or been terminated;

(d) no court, arbitrator or other Governmental Entity shall have issued any order, injunction, decree or other legal restraint or prohibition, and there shall not be any statute, rule or regulation, restraining or prohibiting the consummation of the Merger or the Distribution and no proceeding challenging this Agreement or the Distribution Agreement or the transactions contemplated hereby or thereby or seeking to prohibit, alter, prevent or materially delay the Merger or the Distribution shall have been instituted by any Governmental Entity before any court, arbitrator or other Governmental Entity and be pending;

(e) all actions by or in respect of or filings with any Governmental Entity required to permit the consummation of the Merger (other than the filing of the Certificate of Merger in compliance with the DGCL) and the other transactions contemplated by this Agreement and the Distribution Agreement shall have been obtained and shall be in full force and effect, except those that would not reasonably be

A-11

expected to have a material adverse effect on any party's ability to consummate the transactions contemplated by this Agreement or the Distribution Agreement;

(f) prior to the Effective Time, the Board of Directors of UNITRIN shall have declared the Distribution (subject to the prior consummation of the Recapitalization (as defined in the Distribution Agreement)), all conditions to the Distribution set forth in the Distribution Agreement, other than the prior consummation of the Recapitalization, shall have been satisfied or waived, no circumstance shall exist that would reasonably be expected to prevent the consummation of the Distribution immediately following the Merger, and the Distribution Agreement shall remain in full force and effect;

(g) all representations and warranties of UNITRIN set forth in the Distribution Agreement (other than the representation and warranty set forth in Section 2.3(b)(v) of the Distribution Agreement) and all representations and warranties of UNITRIN and Merger Sub set forth in this Agreement that are qualified as to materiality shall be true and correct, and any such representations and warranties that are not so qualified shall be true and correct in all material respects, as of the Effective Time, and the Company shall have received a certificate executed by the chief executive officer of UNITRIN to such effect;

(h) all covenants to have been performed at or prior to the Effective Time by UNITRIN and Merger Sub pursuant to this Agreement and all covenants to have been performed at or prior to the Effective Time by UNITRIN pursuant to the Distribution Agreement shall have been

performed by UNITRIN and Merger Sub in all material respects at or prior to the Effective Time, and the Company shall have received a certificate executed by the chief executive officer of UNITRIN to such effect;

(i) each of the Company and UNITRIN shall have received all the Required Consents (as defined in the Distribution Agreement);

(j) the Class B Common Stock shall have been approved for listing on the New York Stock Exchange, Inc., subject to official notice of issuance;

(k) no event outside the control of the Company shall have occurred or failed to occur that prevents the lawful consummation of the Recapitalization;

A-12

(l) the transactions contemplated hereby and by the Distribution Agreement shall be in compliance in all material respects with applicable federal and state securities and other applicable laws;

(m) all actions and other documents and instruments reasonably necessary in connection with the transactions contemplated hereby and by the Distribution Agreement shall have been taken or executed, as the case may be, in form and substance reasonably satisfactory to the Company; and

(n) either (i) the private letter ruling from the Internal Revenue Service, providing that, among other things, the Recapitalization and the Distribution will qualify, to the extent set forth therein, as tax-free transactions for federal income tax purposes under Sections 354 and 355 of the Code, respectively (the "IRS Ruling"), shall have been issued and shall continue in effect, such ruling, insofar as it relates to the tax-free nature of the Recapitalization, shall be in form and substance satisfactory to the Company in its sole discretion, and UNITRIN shall have complied with all provisions set forth in the IRS Ruling that are required to be complied with prior to the Declaration Date and the Distribution Date (each as defined in the Distribution Agreement) in order for the Recapitalization to qualify as a tax-free transaction or (ii) if the IRS Ruling is not obtained, each of UNITRIN and the Company shall have received a written opinion in form and substance satisfactory to it of a nationally recognized law firm mutually acceptable to UNITRIN and the Company (it being agreed that Skadden, Arps, Slate, Meagher & Flom (Illinois) and Simpson Thacher & Bartlett will each be deemed to be mutually acceptable to UNITRIN and the Company for purposes of this clause (n)), to the same effect as the IRS Ruling as it relates to the tax-free nature of the Recapitalization.

The foregoing conditions are for the sole benefit of the Company and shall not give rise to or create any duty on the part of the Company to waive or not waive any such condition.

Section 4.2 Conditions to the Obligations of UNITRIN and Merger Sub. The obligations of UNITRIN and Merger Sub to consummate the Merger are subject to the satisfaction (or waiver by UNITRIN and Merger Sub, except that the condition set forth in Section 4.2(a) may not be waived) of the following conditions:

(a) a proposal to adopt this Agreement shall have been approved by the holders of (i) a majority of the Common Stock outstanding and entitled to vote thereon and (ii) a majority of the shares of Common Stock (other than shares held of record or

A-13

beneficially owned by UNITRIN) present in person or by proxy at the Stockholders Meeting and voting on such proposal;

(b) the waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have expired or been terminated;

(c) the IRS Ruling shall have been issued and shall continue in effect, such ruling shall be in form and substance satisfactory to UNITRIN in its sole discretion, and the Company shall have complied with all provisions set forth in the IRS Ruling that are required to be complied with prior to the Declaration Date and the Distribution Date;

(d) no court, arbitrator or other Governmental Entity shall have issued any order, injunction, decree or other legal restraint or prohibition, and there shall not be any statute, rule or regulation, restraining or prohibiting the consummation of the Merger or the Distribution and no proceeding challenging this Agreement or the Distribution Agreement or the transactions contemplated hereby or thereby or seeking to prohibit, alter, prevent or materially delay the Merger or the Distribution shall have been instituted by any Governmental Entity before any court, arbitrator or other Governmental Entity and be pending;

(e) all actions by or in respect of or filings with any Governmental Entity required to permit the consummation of the Merger (other than the filing of the Certificate of Merger in compliance with the DGCL) and the other transactions contemplated by this Agreement and the Distribution Agreement shall have been obtained and shall be in full force and effect, except those that would not reasonably be expected to have a material adverse effect on any party's ability to consummate the transactions contemplated by this Agreement or the Distribution Agreement;

(f) at the Effective Time, all conditions to the declaration of the Distribution and the Distribution set forth in the Distribution Agreement, other than the prior consummation of the Recapitalization, shall have been satisfied or waived, no circumstance shall exist that would reasonably be expected to prevent the consummation of the Distribution immediately following the Merger, and the Distribution Agreement shall remain in full force and effect;

(g) all representations and warranties of the Company set forth in the Distribution Agreement (other than the representation and warranty set forth in Section 2.3(a)(v) of the Distribution Agreement) and this Agreement that are qualified as to materiality shall be true and correct, and any such representations and warranties that

A-14

are not so qualified shall be true and correct in all material respects, as of the Effective Time, and UNITRIN shall have received a certificate executed by the chief executive officer of the Company to such effect; and

(h) all covenants to have been performed at or prior to the Effective Time by the Company pursuant to this Agreement or the Distribution Agreement shall have been performed at or prior to the Effective Time by the Company in all material respects, and UNITRIN shall have received a certificate executed by the chief executive officer of the Company to such effect.

The foregoing conditions are for the sole benefit of UNITRIN and Merger Sub and shall not give rise to or create any duty on the part of UNITRIN or Merger Sub to waive or not waive any such condition.

## **ARTICLE 5 TERMINATION**

### Section 5.1 Termination.

(a) This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time (notwithstanding any approval of this agreement by the stockholders of the Company):

(i) by mutual written consent of the Company and UNITRIN;

(ii) by either the Company or UNITRIN, if there shall be any law or regulation that makes consummation of the Merger illegal or otherwise prohibited or if any judgment, injunction, order or decree enjoining the Company or Merger Sub from consummating the Merger is entered and such judgment, injunction, order or decree shall become final and nonappealable;

(iii) by either the Company or UNITRIN, if there shall be any law or regulation that makes consummation of the Distribution illegal or otherwise prohibited or if any judgment, injunction, order or decree enjoining UNITRIN from consummating the Distribution is entered and such judgment, injunction, order or decree shall become final and nonappealable;

A-15

(iv) by either the Company or UNITRIN, if after a vote on the matter by the Company's stockholders at the Stockholders Meeting, the conditions set forth in Sections 4.1(a) and (b) hereof, in the case of the Company, and Section 4.2(a) hereof, in the case of UNITRIN, are not satisfied;

(v) by either the Company or UNITRIN, if the Merger is not consummated by June 30, 2001; provided that this right shall not be available to any party that is in material breach of its obligations under this Agreement or the Distribution Agreement; or

(vi) by either the Company or UNITRIN, to the extent the Company or UNITRIN, as applicable, is allowed to terminate the Distribution Agreement pursuant to Section 5.10(a)(iii) or 5.10(a)(iv)(C) thereof, as applicable.

(b) This Agreement shall terminate automatically without any action on the part of the Company, UNITRIN or Merger Sub in the event the Distribution Agreement is terminated according to its terms.

Section 5.2 Effect of Termination. If this Agreement is terminated pursuant to Section 5.1, this Agreement shall become void and of no effect with no liability on the part of any party hereto.

## **ARTICLE 6 MISCELLANEOUS**

Section 6.1 Notices. All notices and other communications hereunder shall be in writing, shall be effective when received and shall be duly given if delivered by (a) hand delivery, (b) U.S. Mail, postage prepaid, for first class delivery, (c) Federal Express or similar carrier, freight



prepaid, for next business day delivery, or (d) electronic transmission, provided that confirmation of transmission and receipt is confirmed to each party at the following respective addresses (or at such other address for a party as shall be specified by like notice):

**To UNITRIN:**

**UNITRIN, INC.**

One East Wacker Drive  
Chicago, Illinois 60601

A-16

Fax: (312) 661-4690  
Attn: Chief Financial Officer

with a copy to:

**UNITRIN, INC.**

One East Wacker Drive  
Chicago, Illinois 60601  
Fax: (312) 661-4941  
Attn: General Counsel

and with a copy to:

Skadden, Arps, Slate, Meagher & Flom (Illinois) 333 West Wacker Drive  
Suite 2100  
Chicago, Illinois 60601  
Fax: (312) 407-0411  
Attn: Brian W. Duwe, Esq.

**To Merger Sub:**

**CW DISPOSITION COMPANY**

**c/o UNITRIN, INC.**

One East Wacker Drive  
Chicago, Illinois 60601  
Fax: (312) 661-4690  
Attn: Chief Financial Officer

with a copy to:

Skadden, Arps, Slate, Meagher & Flom (Illinois) 333 West Wacker Drive  
Suite 2100  
Chicago, Illinois 60606  
Fax: (312) 407-0411  
Attn: Brian W. Duwe, Esq.

A-17

**To the Company:**

**CURTISS-WRIGHT CORPORATION**

1200 Wall Street West  
Lyndhurst, New Jersey 07071  
Fax: (201) 896-4021  
Attn: General Counsel

with a copy to:

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017  
Fax: (212) 455-2502

Attn: Caroline B. Gottschalk, Esq.

Section 6.2 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

Section 6.3 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware.

Section 6.4 Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received counterparts hereof signed by the other party hereto.

Section 6.5 Amendments. Any provision of this Agreement may be amended or waived prior to the Effective Time (whether before or after approval of matters presented in connection with the Merger by the stockholders of the Company) if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by the Company and UNITRIN or, in the case of a waiver, by the party against whom such waiver is to be effective; provided that after the adoption of this Agreement by the stockholders of the Company, there shall be no amendment that by law requires

A-18

further approval of such stockholders without obtaining such further approval of such stockholders.

A-19

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

**CURTISS-WRIGHT CORPORATION**

By /s/ Martin R. Benante  
-----  
Name: Martin R. Benante  
Title: Chairman and Chief Executive Officer

**UNITRIN, INC.**

By /s/ Eric J. Draut  
-----  
Name: Eric J. Draut  
Title: Senior Vice President and  
Chief Financial Officer

**CW DISPOSITION COMPANY**

By /s/ Eric J. Draut  
-----  
Name: Eric J. Draut  
Title: President

A-20

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