

316567

ARTICLES OF MERGER
Merger Sheet

MERGING: -----

U.S. FILTER/GP ACQUISITION CORPORATION, a Delaware corporation not
qualified in Florida

INTO

GEOPURE SYSTEMS & SERVICES, INC., a Florida corporation, 316567.

File date: January 17, 1997

Corporate Specialist: Darlene Connell

Account number: 072100000032

Account charged: 70.00



THE UNITED STATES
CORPORATION
COMPANY

RECEIVED
97 JAN 17 PM 3:34
DIVISION OF ACCOUNTS

316567

ACCOUNT NO. : 072100000032
REFERENCE : 226731 4306349
AUTHORIZATION *Patricia Pyjunt*
COST LIMIT : \$ 70.00

ORDER DATE : January 17, 1997

ORDER TIME : 2:49 PM

ORDER NO. : 226731-005

CUSTOMER NO: 4306349

300002062583--3

CUSTOMER: George P. Long, Iii, Esq
Kirkpatrick & Lockhart
1500 Oliver Building

Pittsburgh, PA 15222

ARTICLES OF MERGER

U.S. FILTER/GP ACQUISITION
CORPORATION

INTO

GEOPURE SYSTEMS & SERVICES,
INC.

FILED
97 JAN 17 PM 4:27
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

 CERTIFIED COPY
XX PLAIN STAMPED COPY

CONTACT PERSON: Daniel W Leggett

EXAMINER'S INITIALS: *De*

01-31-97



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

January 21, 1997

CSC - DANIEL LEGGETT

TALLAHASSEE, FL

SUBJECT: GEOPURE SYSTEMS & SERVICES, INC.
Ref. Number: 316567

RESUBMIT
Please give original
submission date as file date.

We have received your document for GEOPURE SYSTEMS & SERVICES, INC. and the authorization to debit your account in the amount of \$70.00. However, the document has not been filed and is being returned for the following:

The articles of merger must contain the provisions of the plan of merger or the plan of merger must be attached.

The document must include original signatures.

The name and capacity of the person signing the document must be noted beneath or opposite the signature.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6906.

Darlene Connell
Corporate Specialist

Letter Number: 897A00002766

DIVISION OF CORPORATIONS

61 8 AM 22 JUN 19

RECEIVED



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

January 22, 1997

CSC - DANIEL LEGGETT

TALLAHASSEE, FL

SUBJECT: GEOPURE SYSTEMS & SERVICES, INC.
Ref. Number: 316567

RESUBMIT
Please give original
submission date as file date.

We have received your document for GEOPURE SYSTEMS & SERVICES, INC. and the authorization to debit your account in the amount of \$70.00. However, the document has not been filed and is being returned for the following:

The Agreement and Plan of Merger states, (on page 7, 2.04 and 2.06) that the Certificate of Incorporation of the merged corporation shall be the Certificate of Incorporation of the surviving corporation and the directors and officers of the merged corporation shall be the directors and officers of the surviving corporation at the time of filing these Articles of Merger. The Articles of the Surviving corporation may be amended or changed at the time of filing the Articles of Merger; however, we must have a copy of the Articles of Incorporation as amended to be attached as an exhibit and the officers and directors may be included in them or a separate exhibit may be attached with the list of officers and directors with an address for each. Please have any reference to the merged corporations' articles becoming the surviving corporations' articles removed.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6906.

Darlene Connell
Corporate Specialist

Letter Number: 997A00003151

RECEIVED
97 JAN 29 AM 11:25
DIVISION OF CORPORATION



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

January 30, 1997

CSC - DANIEL LEGGETT

TALLAHASSEE, FL

SUBJECT: GEOPURE SYSTEMS & SERVICES, INC.
Ref. Number: 316567

RESUBMIT
Please give original
submission date as file date.

We have received your document for GEOPURE SYSTEMS & SERVICES, INC. and the authorization to debit your account in the amount of \$70.00. However, the document has not been filed and is being returned for the following:

EXHIBIT 2.04 has listed CORPORATION SERVICE COMPANY as the new agent, however, the registered agent acceptance page has AMY G. GOSSIN listed as the registered agent with no signature. Please have the correct registered agent with an address, signature and acceptance shown within Exhibit 2.04.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6906.

Darlene Connell
Corporate Specialist

Letter Number: 997A00004839

RECEIVED
- 97 JAN 30 PM 3:30
DIVISION OF CORPORATION

ARTICLES OF MERGER
OF
U.S. FILTER/GP ACQUISITION CORPORATION
AND
GEOPURE SYSTEMS & SERVICES, INC.

FILED
97 JAN 17 PM 4:27
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

To the Department of State
State of Florida

Pursuant to the provisions of the Florida Business Corporation Act, the foreign business corporation and the domestic business corporation herein named do hereby submit the following Articles of Merger.

1. Annexed hereto and made a part hereof is the Agreement and Plan of Merger for merging U.S. Filter/GP Acquisition Corporation, a Delaware corporation ("Acquisition") with and into Geopure Systems & Services, Inc., a Florida corporation ("Geopure"), dated as of January 6, 1997, as amended as of January 17, 1997, made by and among Julie K. Jasper, an individual, Gene W. Jasper, an individual, Andrew E. Lorincz, an individual, Diane D. Lorincz, an individual, Rhonda S. Mowry, an individual, Pamela R. Robinson, an individual, Daniel C. Roszel, an individual, Norris O. Roszel, an individual, Stephanie P. Roszel, an individual, Sue H. Roszel, an individual, Kathy M. Sutton, an individual, Jennifer R. Weeks, an individual, Theodore Loper, an individual, United States Filter Corporation, a Delaware corporation, Acquisition and Geopure (the "Plan of Merger"). Pursuant to the Plan of Merger, Geopure is the surviving corporation.

2. The merger of Acquisition with and into Geopure is permitted by the laws of the jurisdiction of organization of Acquisition and is in compliance with said laws. The date of adoption of the Plan of Merger by the sole stockholder of Acquisition was January 17, 1997.

3. The shareholders of Geopure entitled to vote thereon approved and adopted the aforesaid Plan of Merger in accordance with the provisions of the Florida Business Corporation Act on December 16, 1996.

4. The effective time and date of the merger herein provided for in the State of Florida shall be 11:59 p.m. on January 17, 1997.

Exhibit: Plan of Merger

Executed on January 17, 1997.

U.S. FILTER/GP ACQUISITION CORPORATION

By: Nicholas C. Memo
Name: Nicholas C. Memo
Capacity: Executive Vice President

GEOPURE SYSTEMS & SERVICES, INC.

By: Daniel C. Roszel
Name: Daniel C. Roszel
Capacity: President

GEOPURE

Agreement and Plan of Merger ("Agreement"), dated as of the 12 day of January, 1997, by and among Julie K. Jasper, an individual ("J. Jasper"), Gene W. Jasper ("G. Jasper"), an individual, Andrew E. Lorincz, an individual ("A. Lorincz"), Diane D. Lorincz, an individual ("D. Lorincz"), Rhonda S. Mowry, an individual ("Mowry"), Pamela R. Robinson, an individual ("Robinson"), Daniel C. Roszel, an individual ("D. Roszel"), Norris O. Roszel, an individual ("N. Roszel"), Stephanie P. Roszel, an individual ("S. P. Roszel"), Sue H. Roszel, an individual ("S. H. Roszel"), Kathy M. Sutton, an individual ("Sutton"), Jennifer R. Weeks, an individual ("Weeks"), Theodore Loper, an individual ("Loper") (hereinafter individually referred to as "Seller" and collectively referred to as "Sellers") and UNITED STATES FILTER CORPORATION, a Delaware corporation ("USF"), through its wholly-owned subsidiary, U.S. Filter / GP Acquisition Corp., a Del corporation ("Acquisition"), and GEOPURE SYSTEMS AND SERVICES, INC., a Florida corporation (the "Company").

USF owns all of the issued and outstanding shares of capital stock of Acquisition. USF desires to acquire all of the capital stock of the Company on the terms and subject to the conditions set forth below. USF, Acquisition and Seller intend this Plan of Reorganization to be reorganized within the meaning of Section 368 (a) (2) (F) of the Code. In consideration of the representations, warranties, covenants and agreements contained herein, Sellers, Acquisition and the Company, each intending to be legally bound hereby, agree as set forth below.

ARTICLE I

DEFINITIONS: CONSTRUCTION

1.01 Definitions. As used in this Agreement, the following terms have the meanings specified in this Section 1.01. All accounting terms not specifically defined herein shall be construed in accordance with Accounting Principles.

"Accounting Principles" has the meaning given that term in Section 3.05(a).

"Acquisition" means U.S. Filter / GP Acquisition Corp. corporation, a wholly-owned subsidiary of USF.

"Acquisition Damages" has the meaning given that term in Section 8.02.

"Acquisition Indemnities" has the meaning given that term in Section 8.02.

1 "Adjusted Closing Balance Sheet" has the meaning given that term in Section 3.05(a).

2
3 "Affiliate" means, with respect to any Person, any other Person that, directly or
4 indirectly, through one or more intermediaries, controls, is controlled by, or is under common
5 control with such Person.

6
7 "Agreement" means this Agreement and Plan of Merger, as it may be amended from
8 time to time.

9
10
11 "Bank Debt" means any debts, liabilities or other obligations of the Company as of the
12 Closing Date to banks, financial institutions and other credit providers other than the motor
13 vehicle financing arrangements described on Schedule 4.03.

14
15 "Benefit Plan" has the meaning given that term in Section 4.21(a).

16
17 "Business" means the business operated by the Company's High Purity Division and
18 Environmental Services Division.

19
20 "CERCLIS" means the United States Comprehensive Environmental Response
21 Compensation Liability Information System List pursuant to Superfund.

22
23 "Closing" has the meaning given that term in Section 2.02.

24
25 "Closing Date" has the meaning given that term in Section 2.02.

26
27 "Code" means the United States Internal Revenue Code of 1986, as amended, and the
28 applicable rulings and regulations thereunder.

29
30 "Company Group" has the meaning given that term in Section 4.21(b).

31
32 "Company Plan" has the meaning given that term in Section 4.21(a).

33
34 "Company/Seller Payables" means any amounts payable by the Company to Sellers or
35 any Affiliate of Sellers.

36
37 "Company Shares" has the meaning given that term in the introductory paragraph of this
38 Agreement.

39
40 "Contract" and "Contracts" have the respective meanings given those terms in
41 Section 4.13.

42
43 "Damages" has the meaning given that term in Section 8.07.

44
45 "Defined Benefit Plan" has the meaning given that term in Section 4.21(e).

46
47 "Effective Time" has the meaning given that term in Section 2.03.

48
49 "Encumbrance" means any liability, debt, mortgage, deed of trust, pledge, security
50

1 interest, encumbrance, option, right of first refusal, agreement of sale, adverse claim, easement,
2 lien, assessment, restrictive covenant, encroachment, burden or charge of any kind or nature
3 whatsoever or any item similar or related to the foregoing.

4
5 "Environmental Law" means any applicable Law relating to public health and safety or
6 protection of the environment, including common law nuisance, property damage and similar
7 common law theories.

8
9 "Environmental Services Division" means the division of the Company engaged in
10 environmental services, including manufacturing, delivering, installing and maintaining pollution
11 control/remediation equipment.

12
13 "Environmental Services Subsidiary" shall mean a wholly owned subsidiary of the
14 Company formed by Acquisition for the purpose of operating the Environmental Services
15 Division from and after the Closing.

16
17 "ERISA" means the United States Employee Retirement Income Security Act of 1974, as
18 amended, and the applicable rulings and regulations thereunder.

19
20 "FASB" means the United States Financial Accounting Standards Board or its successor.

21
22 "Final Closing Balance Sheet" has the meaning given to that term in Section 3.05(d).

23
24 "Financial Statements" has the meaning given that term in Section 4.07(b).

25
26 "Franchise Agreement" shall mean that certain Dealer Franchise Agreement dated
27 November 17, 1969 described on attached Schedule 4.13.

28
29 "Gainesville Real Property" means the Real Property located at 2300 and 2308 NW 71st
30 Place, Gainesville, Florida and more particularly described on Schedule 4.15 attached hereto.

31
32 "Governing Documents" means, with respect to any Person who is not a natural Person,
33 the certificate or articles of incorporation, bylaws, deed of trust, formation or governing
34 agreement and other charter documents or organization or governing documents or instruments of
35 such Person.

36
37 "Governmental Body" means any court, government (federal, state, local or foreign),
38 department, commission, board, bureau, agency, official or other regulatory, administrative or
39 governmental authority or instrumentality.

40
41 "High Purity Division" means the division of the Company engaged in the sale of
42 commercial and industrial water purification products and services.

43
44 "Indemnified Party" has the meaning given that term in Section 8.07.

45
46 "Indemnifying Party" has the meaning given that term in Section 8.07.

47
48 "Intellectual Property" has the meaning given that term in Section 4.20.

49
50 "IRS" means the United States Internal Revenue Service.

51

1 "June 30 Balance Sheet" means the balance sheet of the Company as of June 30, 1996.

2
3 "Law" means any applicable federal, state, municipal, local or foreign statute, law,
4 ordinance, rule, regulation or order of any kind or nature whatsoever including any public
5 policy, order of any Governmental Body or principle of common law.

6
7 "Litigation" has the meaning given that term in Section 4.12.

8
9 "Merger" has the meaning given that term in Section 2.01.

10
11 "Merger Consideration" has the meaning given that term in Section 3.01(b).

12
13 "Multiemployer Plan" has the meaning given that term in Section 4.21(f).

14
15 "NYSE" means the New York Stock Exchange.

16
17 "Orlando Real Property" means the Real Property owned by the Company located at
18 1201 South Orange Blossom Trail, Orlando, Florida more particularly described in Schedule
19 4.15 attached hereto.

20
21 "Other Agreement" means each other agreement or document contemplated hereby to be
22 executed and delivered in connection with the transactions contemplated by this Agreement on or
23 before Closing.

24
25 "PBGC" means the United States Pension Benefit Guaranty Corporation.

26
27 "PCBs" means polychlorinated biphenyls.

28
29 "Pensacola Real Property Lease" means the lease agreement between the Company and
30 Mike Gavallas related to the Real Property located at Government Street, Pensacola, Florida
31 more particularly described in Schedule 4.15 attached hereto.

32
33 "Permit" and "Permits" have the respective meanings given those terms in Section 4.14.

34
35 "Person" means and includes a natural person, a corporation, an association, a
36 partnership, a limited liability company, a trust, a joint venture, an unincorporated organization,
37 a business, any other legal entity, and a Governmental Body.

38
39 "Post-Closing Merger Consideration Adjustment" means the post-closing adjustment to
40 the Purchase Price pursuant to Section 3.04.

41
42 "Preliminary Closing Balance Sheet" has the meaning given that term in
43 Section 3.05(a).

44
45 "Qualified Plan" has the meaning given that term in Section 4.21(d).

46
47 "Real Property" has the meaning given that term in Section 4.15.

48
49 "Receivables" has the meaning given that term in Section 4.10.

50

1 "Regulated Material" means any hazardous substance as defined by any Environmental
2 Law and any other material regulated by any applicable Environmental Law, including
3 petroleum, petroleum-related material, crude oil or any fraction thereof, PCBs, and friable
4 asbestos.

5
6 "Related Party" means (i) Seller, (ii) any Affiliate of Seller, including the Company, (iii)
7 any officer or director of any Person identified in clauses (i) or (ii) preceding, and (iv) any
8 spouse, sibling, ancestor or lineal descendant of any natural Person identified in any one of the
9 preceding clauses.

10
11 "Roszel Compensation" means the aggregate amount agreed to in full settlement and
12 compromise of all claims against Company by N. Roszel arising out of that certain
13 Employment/Deferred Compensation Revised Agreement between Company and N. Roszel
14 effective June 1, 1995 in the total amount of \$1,750,000, of which \$1,730,000 is payable in USF
15 Common Stock as described below, and \$20,000 is payable by the transfer of the Orlando Real
16 Property to N. Roszel.

17
18 "SEC" means the United States Securities and Exchange Commission.

19
20 "Securities Act" means the Securities Act of 1933, as amended.

21
22 "Security Right" means, with respect to any security, any option, warrant, subscription
23 right, preemptive right, other right, proxy, put, call, demand, plan, commitment, agreement,
24 understanding or arrangement of any kind relating to such security, whether issued or unissued,
25 or any other security convertible into or exchangeable for any such security. "Security Right"
26 includes any right relating to issuance, sale, assignment, transfer, purchase, redemption,
27 conversion, exchange, registration or voting and includes rights conferred by statute, by the
28 issuer's Governing Documents or by agreement.

29
30 "Seller Damages" has the meaning given that term in Section 8.03.

31
32 "Seller Indemnitees" has the meaning given that term in Section 8.03.

33
34 "Selling Group" means a member, whether past or present, of Seller's affiliated group of
35 corporations within the meaning of Code Section 1504(2).

36
37 "Securities Act" means the United States Securities Act of 1933, as amended.

38
39 "Shelf Registration Statement" means the registration statement on Form S-4 filed
40 pursuant to the Securities Act by USF on July 8, 1996, as amended. The Shelf Registration
41 Statement contemplates, generally, issuance of shares of common stock of USF, par value \$0.01,
42 in connection with certain business combinations. The Shelf Registration Statement was declared
43 effective by the SEC on August 16, 1996. A copy of the final prospectus was delivered to Sellers
44 concurrently with the execution of this Agreement.

45
46 "Stockholders' Equity of the Company" has the meaning given that term in Section
47 3.04.

48
49 "Subsidiary" means any corporation, partnership, joint venture or other entity in which
50 the Company owns, directly or indirectly, more than 20% of the outstanding voting securities or
51 equity interests.

1
2 "Superfund" means the United States Comprehensive Environmental Response
3 Compensation and Liability Act of 1980, 42 U.S.C. Sections 6901 et seq., as amended.

4
5 "Surviving Corporation" has the meaning given that term in Section 2.01.

6
7 "Tax" means any domestic or foreign federal, state, county or local tax, levy, impost or
8 other charge of any kind whatsoever, including any interest or penalty thereon or addition
9 thereto, whether disputed or not.

10
11 "Tax Return" means any return, declaration, report, claim for refund, or information
12 return or statement relating to any Tax, including any schedule or attachment thereto, and
13 including any amendment thereof.

14
15 "Undisclosed Company Liabilities" means any liabilities of the Company which are not
16 disclosed on the June 30 Balance Sheet.

17
18 "USF" means United States Filter Corporation, a Delaware corporation.

19
20 "USF Common Stock" means USF's common stock, par value \$.01 per share.

21
22 "USF Shares" has the meaning given that term in Section 3.03.

23
24 "USF Share Value" has the meaning given that term in Section 3.03.

25
26 **1.02 Construction.** As used herein, unless the context otherwise requires: (i) references
27 to "Article" or "Section" are to an article or section hereof; (ii) all "Exhibits" and "Schedules"
28 referred to herein are to Exhibits and Schedules attached hereto and are incorporated herein by
29 reference and made a part hereof; (iii) "include", "includes" and "including" are deemed to be
30 followed by "without limitation" whether or not they are in fact followed by such words or words
31 of like import; and (iv) the headings of the various articles, sections and other subdivisions hereof
32 are for convenience of reference only and shall not modify, define or limit any of the terms or
33 provisions hereof.

34
35 **ARTICLE II**
36 **THE MERGER**

37
38 **2.01. The Merger.** Upon the terms and subject to the conditions of this Agreement, at
39 the Effective Time, Acquisition shall merge with and into the Company and the separate
40 corporate existence of Acquisition shall thereupon cease (the "Merger"). The Company shall be
41 the surviving corporation of the Merger (sometimes referred to herein as the "Surviving
42 Corporation") and shall continue to be governed by the laws of the State of Florida, and the
43 separate corporate existence of the Company with all its rights, privileges, immunities, powers
44 and franchises shall continue unaffected by the Merger, except as otherwise set forth in this
45 Article II. Acquisition and the Company are the "constituent corporations" in the Merger within
46 the meaning of Section 607.1101, Fla. Stat. (1995). The Merger shall have the effects specified
47 in the Florida Corporation Act and this Agreement.

48
49 **2.02. Closing.** The closing of the Merger (the "Closing") shall take place (a) at the
50 offices of the Company at 2300 N.W. 71st Pl., Gainesville, Florida 32653, beginning at 10:00
51 a.m., prevailing time, on January 17, 1997 (to be effective January 1, 1997 for

1 financial and accounting, but not legal, purposes) ("Closing Date") or (b) at such other place or
2 time or on such other date as Acquisition, USF and the Company may agree.
3

4 **2.03. Effective Time.** Simultaneously with the Closing on the Closing Date, and
5 provided that this Agreement has not been terminated and abandoned pursuant to Article VII,
6 Acquisition and the Company shall file the Certificate of Merger with the Secretary of State of
7 the State of Delaware. The Merger shall become effective at such time as the Certificate of
8 Merger has been duly filed with the Secretary of State of the State of Delaware, and such time is
9 referred to herein as the "Effective Time".
10

11 **2.04. Certificate of Incorporation.** The Certificate of Incorporation of Acquisition shall
12 be the Certificate of Incorporation of the Surviving Corporation until duly amended further in
13 accordance with the terms thereof and the DGCL and Florida Corporation Act.
14

15 **2.05. By-laws.** The By-laws of Acquisition in effect immediately prior to the Effective
16 Time shall be the By-laws of the Surviving Corporation until duly amended further in accordance
17 with the terms thereof, the Certificate of Incorporation of the Surviving Corporation and the
18 DGCL.
19

20 **2.06. Directors and Officers.** The directors and officers of Acquisition immediately
21 prior to the Effective Time shall be the directors and officers of the Surviving Corporation from
22 and after the Effective Time and until their respective successors shall have been duly elected and
23 qualified in the manner provided in the Certificate of Incorporation and By-laws of the Surviving
24 Corporation, or as otherwise provided by law.
25

26 **ARTICLE III.**

27 **PAYMENT OF AND ADJUSTMENT TO MERGER CONSIDERATION**

28
29 **3.01. Manner of Converting Shares.** At the Effective Time, each of the following
30 transactions shall be deemed to occur simultaneously:

1
2 (a) Acquisition Shares. By virtue of the Merger and without any action on the
3 part of USF or Acquisition, each then issued and outstanding share, and each share then held in
4 the treasury, of Common Stock of Acquisition shall automatically be converted into one share of
5 Common Stock, par value \$10.00 per share, of the Surviving Corporation. The certificates
6 formerly representing any of the shares of capital stock of Acquisition shall thereafter cease to
7 have any rights except the right to receive, without interest, the shares of the Surviving
8 Corporation into which such Acquisition shares shall have been converted pursuant to the
9 provisions hereof.

10
11 (b) Company Shares. By virtue of the Merger and without any action on the
12 part of the Stockholders, the shares of Common Stock, \$10.00 par value per share, of the
13 Company (the "Company Shares") issued and outstanding at the Effective Time shall be
14 canceled, and the Sellers shall be entitled to receive the Merger Consideration as described below
15 (subject to the amount held in escrow), and the Company Shares held in the treasury of the
16 Company at the Effective Time shall be canceled. The aggregate USF Common Shares to be
17 issued by USF to the Shareholders pursuant to this Article III are sometimes referred to herein as
18 the "Merger Consideration".

19
20 3.02. Certificates of Company Shares. Until surrendered in accordance with the
21 provisions of Section 3.01, the certificate or certificates that at the Effective Time represented
22 issued and outstanding Company Shares registered in the names of the Sellers at the Effective
23 Time shall represent for all purposes the right to receive, as adjusted and provided in this
24 Article III, the Merger Consideration. As promptly as practicable at or after the Effective Time,
25 the Surviving Corporation shall deliver or mail and make available to each Seller a form letter of
26 transmittal and instructions for use in effecting the surrender of a certificate or certificates of
27 Company Shares for payment thereof. After the Effective Time, no certificates formerly
28 representing Company Shares shall be transferred to any Person for any reason, on the stock
29 records of the Company or otherwise.

30
31 3.03. Delivery of Merger Consideration. Upon surrender to the Surviving Corporation
32 of a certificate or certificates that at the Effective Time represented issued and outstanding
33 Company Shares registered in the names of the Sellers at the Effective Time, free and clear of
34 any and all Encumbrances), together with a duly executed letter of transmittal, the Surviving
35 Corporation shall promptly deliver the Merger Consideration to Sellers *pro rate* by delivery of
36 that number of shares of common stock of USF, par value \$0.01 (rounded in the aggregate to the
37 nearest whole share; collectively, the "USF Shares") that is equal to (x) Six Million Two
38 Hundred Seventy Thousand Dollars (\$6,270,000) less the aggregate amount of (i) the Company's
39 Bank Debt, (ii) the Company/Seller Payables, (iii) the Roszel Compensation, (iv) the Undisclosed
40 Company Liabilities, (v) amounts owing to Delores Zarillo, and (vi) the amounts owing under
41 that certain note made by Lorincz (\$2998.03 at closing) (the "Purchase Price") decreased by the
42 Post-Closing Purchase Price Adjustment, if any, and reduced by the amount to be held in escrow
43 pursuant to Section 8.04, divided by (y) USF Share Value, and, subject to USF's right to hold in
44 escrow USF Shares pursuant to Sections 8.04 and 8.05 for the time period described therein,
45 within five (5) business days after the determination of the Post-Closing Merger Consideration
46 Adjustment is made and the time period described in Section 8.05 has expired, USF or Sellers, as
47 the case may be, shall settle the Post-Closing Merger Consideration Adjustment by distributing
48 from the escrow established pursuant to Section 8.04(b) and delivering to Acquisition that
49 number of USF Shares, valued at the USF Share Value, equal to the Post-Closing Merger
50 Consideration Adjustment.

(a) The per share value of the USF Shares delivered as Merger Consideration hereunder is referred to herein as the "USF Share Value". The USF Share Value shall be equal to USF Average Price.

The "USF Average Price" shall equal the lesser of the following: (i) the average of the closing prices for USF Shares as reported by the NYSE for the 10 consecutive trading days ending on the fifth to last trading day immediately preceding the Closing Date, and (ii) the average of the closing prices for USF Shares as reported by the NYSE for the 10 consecutive trading days ending on the fifth to last trading day immediately preceding January 6, 1997.. The USF Average Price shall be rounded to the nearest eighth of a point.

3.04. Post-Closing Merger Consideration Adjustment. If the Stockholders' Equity of the Company at the close of business on the Closing Date is less than \$1,006,807, then the Merger Consideration shall be reduced dollar-for-dollar by the amount of such deficiency. "Stockholders Equity of the Company" means the excess of the consolidated tangible assets of the Company over the consolidated liabilities of Company, as adjusted and calculated in accordance of the procedure established for determining the Final Closing Balance Sheet herein.

3.05. Closing Balance Sheets.

(a) **Preliminary and Adjusted Closing Balance Sheets.** Promptly after the Closing, Sellers shall prepare a consolidated balance sheet and related notes of the Company as of the close of business on the Closing Date (the "Preliminary Closing Balance Sheet"). The Preliminary Closing Balance Sheet shall be prepared in accordance with the Accounting Principles. As used herein, "Accounting Principles" mean generally accepted accounting principles except that, at Acquisition's option, the effect of any material breaches of the representations, warranties, covenants and agreements of Sellers or the Company made herein and discovered by Acquisition on or before the date that the Adjusted Closing Balance Sheet is delivered by Acquisition to Sellers shall be fully reserved therein. USF shall examine and review the Preliminary Closing Balance Sheet in accordance with generally accepted auditing standards and, based upon such examination, make such adjustments, if any, to the Preliminary Closing Balance Sheet as shall in its judgment be required to cause the Preliminary Closing Balance Sheet to reflect fairly those items required to be reflected therein in accordance with the Accounting Principles (after examination and any adjustment, the "Adjusted Closing Balance Sheet").

(b) **Delivery of Adjusted Closing Balance Sheet.** Within 90 days after Seller has delivered to Acquisition the Preliminary Closing Balance Sheet the Adjusted Closing Balance Sheet shall be delivered by USF to Sellers. Sellers and their representatives shall be provided complete access to all work papers and other information used by USF in preparing the Adjusted Closing Balance Sheet. The Adjusted Closing Balance Sheet, when delivered by USF to Sellers, shall be deemed conclusive and binding on the parties for purposes of determining the Post-Closing Merger Consideration Adjustment, unless Seller notifies Acquisition in writing within ten (10) days after receipt of the Adjusted Closing Balance Sheet of its disagreement therewith, which notice shall state with reasonable specificity the reasons for any disagreement and identify the items and amounts in dispute.

(c) **Arbitration.** If any disagreement concerning the Post-Closing Merger Consideration Adjustment is not resolved by Acquisition and Sellers within thirty (30) days following the receipt by USF of the Adjusted Closing Balance Sheet, the undisputed amount shall be paid in accordance with Section 3.03, and USF and Sellers shall promptly engage, on standard terms and

1 conditions for a matter of such nature, a nationally recognized firm of independent accountants to
2 resolve such dispute. The firm of independent accountants shall be proposed in writing by USF
3 to Sellers. In the absence of prompt agreement on the identity of the independent accountants,
4 the Chicago office of the accounting firm of KPMG Peat Marwick LLP shall be engaged by the
5 parties. The engagement agreement with the independent accountants shall require the
6 independent accountants to make their determination with respect to the items in dispute within
7 ninety (90) days following the receipt by Sellers of the Adjusted Closing Balance Sheet. USF
8 and Sellers shall each pay one-half of the cost of the fees and expenses of such independent
9 accountants at the time of payment of the Post-Closing Merger Consideration Adjustment. The
10 resolution by the independent accountants of any dispute concerning the Post-Closing Merger
11 Consideration Adjustment shall be final, binding and conclusive upon the parties and shall be the
12 parties' sole and exclusive remedy regarding any dispute concerning the Post-Closing Merger
13 Consideration Adjustment.

14
15 (d) Final Closing Balance Sheet. The Adjusted Closing Balance Sheet, as modified by
16 the parties' agreement and by any determination by the independent accountants as described in
17 this Section 3.05, shall be the "Final Closing Balance Sheet".

18
19 (e) Balance Sheet Allocation. Acquisition shall allocate the assets and liabilities
20 reflected on the Final Closing Balance Sheet between the Company and the Environmental
21 Services Subsidiary consistent with the allocation set forth on Schedule 3.05(e) attached hereto.

22
23 (f) Roszel Compensation. The Roszel Compensation shall be paid in part by
24 Surviving Corporation delivering to N. Roszel that number of Common Shares of USF, par
25 value \$0.1 (rounded in the aggregate to the nearest whole share) that is equal to \$1,730,000
26 divided by the USF Share Value.

27
28 **ARTICLE IV**
29 **REPRESENTATIONS AND WARRANTIES**
30 **OF SELLERS AND THE COMPANY**

31
32 As an inducement to Acquisition and USF to enter into this Agreement and consummate
33 the transactions contemplated hereby, D. Roszel, N. Roszel, Mowry, G. Jasper, S.P. Roszel and
34 Weeks (collectively "Warrantors") and the Company, severally but not jointly, represents and
35 warrants to Acquisition and USF as follows:

36
37 **4.01 Organization**. The Company is a corporation duly organized, validly existing and
38 in good standing under the laws of its jurisdiction of organization, and has the corporate power
39 and authority to own or lease its properties, carry on its business as now conducted, enter into
40 this Agreement and the Other Agreements to which it is or is to become a party and perform its
41 obligations hereunder and thereunder.

42
43 **4.02 Authorization; Enforceability**. This Agreement and each Other Agreement to
44 which Warrantors or the Company, or any of them, is a party have been duly executed and
45 delivered by and constitute the legal, valid and binding obligations of such party, enforceable
46 against it in accordance with their respective terms. Each Other Agreement to which either
47 Sellers or the Company, or any of them, is to become a party pursuant to the provisions hereof,
48 when executed and delivered by such party, will constitute the legal, valid and binding obligation
49 of such party, enforceable against such party in accordance with the terms of such Other
50 Agreement. All actions contemplated by this Section and this Agreement have been duly and
51 validly authorized by all necessary proceedings by Sellers and the Company.

1
2 **4.03 Company Shares: Capitalization.** The authorized capital stock of the Company
3 consists solely of 1,000 shares of common stock, US\$10.00 par value per share, of which
4 shares are issued and outstanding and none are held in its treasury. The Company Shares
5 constitute all of the issued and outstanding shares of capital stock of the Company. All of the
6 Company Shares are owned of record, legally and beneficially by Sellers as set forth on Exhibit
7 4.03 attached hereto. The Company Shares are free and clear of any and all Encumbrances, and
8 upon delivery of the Company Shares hereunder, USF will acquire title thereto, free and clear of
9 any and all Encumbrances. There are no Security Rights relating to any of the Company Shares.

10 All rights and powers to vote the Company Shares are held exclusively by Sellers. All of the
11 Company Shares are validly issued, fully paid and nonassessable, were not issued in violation of
12 the terms of any agreement or other understanding, and were issued in compliance with all
13 applicable federal and state securities or "blue sky" laws and regulations. The Company is
14 successor in interest to Continental Water Conditioning Company.

15
16 **4.04 Subsidiaries and Investments.** The Company does not own, nor has it ever
17 owned, any shares of capital stock of or other equity interest in any corporation, partnership,
18 joint venture or other entity.

19
20 **4.05 Qualification.** The Company is duly qualified and in good standing as a foreign
21 corporation and is duly authorized to transact business in each jurisdiction wherein the character
22 of the properties owned or leased by it or the nature of the activities conducted by it makes such
23 qualification and good standing necessary.

24
25 **4.06 No Violation of Laws or Agreements; Consents.** Neither the execution and
26 delivery of this Agreement or any Other Agreement to which Sellers or the Company, or any of
27 them, is or is to become a party (other than the Franchise Agreement), the consummation of the
28 transactions contemplated hereby or thereby nor the compliance with or fulfillment of the terms,
29 conditions or provisions hereof or thereof by Sellers or the Company, or any of them, will: (i)
30 contravene any provision of the Governing Documents of the Company, (ii) conflict with, result
31 in a breach of, constitute a default or an event of default (or an event that might, with the passage
32 of time or the giving of notice or any of them, constitute a default or event of default) under any
33 of the terms of, result in the termination of, result in the loss of any right under, or give to any
34 other Person the right to cause such a termination of or loss under, any asset of Sellers or the
35 Company, including any Permit, Intellectual Property, license, franchise, indenture, mortgage or
36 any other contract, agreement or instrument to which either Sellers or the Company is a party or
37 by which any of their assets may be bound or affected, (iii) result in the creation, maturation or
38 acceleration of any liability or obligation of Sellers or the Company (or give to any other Person
39 the right to cause such a creation, maturation or acceleration), (iv) to the best knowledge of
40 Warrantors and the Company, violate any Law or violate any judgment or order of any
41 Governmental Body to which Sellers or the Company is subject or by which any of their
42 respective assets may be bound or affected, or (v) result in the creation or imposition of any
43 Encumbrance upon any of the Company Shares or any asset of Sellers or the Company or give to
44 any other Person any interest or right therein. No consent, approval or authorization of, or
45 registration or filing with, any Person is required in connection with the execution or delivery by
46 Sellers or the Company, or any of them, of this Agreement or any of the Other Agreements to
47 which either, or any of them, is or is to become a party pursuant to the provisions hereof or the
48 consummation by Sellers or the Company, or any of them, of the transactions contemplated
49 hereby or thereby.

50
51 **4.07 Financial Information.**

1
2 (a) **Records.** The books of account and related records of the Company reflect
3 accurately and in detail its assets, liabilities, revenues, expenses and other transactions.
4

5 (b) **Financial Statements.** Attached as Exhibit 4.07(b) are the consolidated and
6 consolidating balance sheets, income statements and statements of cash flows for the Company at
7 April 30, 1996, April 30, 1995 and April 30, 1994 and for the years then ended, and attached
8 hereto as Exhibit 4.07(b) are the unaudited interim consolidated and consolidating balance sheets,
9 income statements and statements of cash flows for the Company at September 30, 1996 and for
10 the periods then ended (collectively, the "Financial Statements"). The Financial Statements (i)
11 are accurate, correct and complete in accordance with the books of account and records of the
12 Company, (ii) have been prepared in accordance with the Accounting Principles on a consistent
13 basis throughout the indicated periods, and (iii) present fairly the consolidated financial
14 condition, assets and liabilities and results of operation of the Company at the dates and for the
15 relevant periods indicated in accordance with the Accounting Principles. The Stockholders'
16 Equity of the Company at June 30, 1996, as determined by reference to the June 30 Balance
17 Sheet, was US\$1,006,807. As of the date of this Agreements Company/Seller payables do not
18 exceed \$_____.
19

20 (c) **Undisclosed Liabilities.** The Company has no debt, obligation or liability, absolute,
21 fixed, contingent or otherwise, of any nature whatsoever, whether due or to become due,
22 including any unasserted claim, whether incurred directly or by any predecessor thereto, and
23 whether arising out of any act, omission, transaction, circumstance, sale of goods or services,
24 state of facts or other condition, except: (i) those reflected or reserved against on the Financial
25 Statements in the amounts shown therein; (ii) those not required under Accounting Principles to
26 be reflected or reserved against in the Financial Statements that are expressly quantified and set
27 forth in the Contracts identified pursuant to Section 4.13; (iii) those disclosed on Schedule 4.07
28 attached hereto; and (iv) those of the same nature as those set forth on the Financial Statements
29 that have arisen in the ordinary course of business of the Company after the date of the latest
30 Financial Statements through the date hereof, all of which have been consistent in amount and
31 character with past practice and experience, and none of which, individually or in the aggregate,
32 has had or will have an adverse effect on the business, financial condition or prospects of the
33 Company and none of which is a liability for breach of contract or warranty or has arisen out of
34 tort, infringement of any intellectual property rights, or violation of Law or is claimed in any
35 pending or threatened legal proceeding.
36

37 (d) **No Changes.** Since the date of the Financial Statements, to the Closing Date, the
38 Company has conducted its business only in the ordinary course. Without limiting the generality
39 of the foregoing sentence, since the date of the Financial Statements, there has not been any:
40 (i) adverse change in the financial condition, assets, liabilities, net worth, earning power,
41 business or prospects of the Company; (ii) damage or destruction to any asset of the Company,
42 whether or not covered by insurance not the result of normal depreciation and normal wear and
43 tear; (iii) strike or other labor trouble at the Company; (iv) creation of any Encumbrance on any
44 asset of the Company; (v) declaration or payment of any dividend or other distribution on or with
45 respect to or redemption or purchase by the Company of any shares of capital stock of the
46 Company, including any of the Company Shares; (vi) increase in the salary, wage or bonus of
47 any managerial employee of the Company except those done in the normal course of business for
48 periodic raises in accordance with past business practices, or any increase in the number of such
49 employees; (vii) asset acquisition or expenditure in excess of US\$20,000, other than the purchase
50 of inventory in the ordinary course of business; (viii) change in any Company Plan; (ix) change
51 in any method of accounting; (x) payment to or transaction with any Related Party, which

1 payment or transaction is not specifically disclosed on Schedule 4.16; (xi) disposition of any asset
2 (other than inventory in the ordinary course of business) for less than fair market value, except
3 the Orlando Real Property which was disposed of at book value; (xii) payment, prepayment or
4 discharge of any liability other than in the ordinary course of business or any failure to pay any
5 liability when due; (xiii) write-offs or write-downs of any assets of the Company; (xiv) creation,
6 termination or amendment of, or waiver of any right under, any material agreement of the
7 Company; or (xv) agreement or commitment to do any of the foregoing.

8 9 **4.08 Taxes.**

10
11 (a) **Tax Returns: Payment.** Sellers and the Company have filed or caused to be filed on
12 a timely basis, or will file or cause to be filed on a timely basis, all Tax Returns that are required
13 to be filed by it prior to or on the Closing Date with respect to the Company or Sellers' interest
14 therein, pursuant to the Law of each governmental authority with taxing power over it. All such
15 Tax Returns were or will be, as the case may be, correct and complete. Sellers and the Company
16 have paid all Taxes that have become due as shown on such Tax Returns or pursuant to any
17 assessment received as an adjustment to such Tax Returns, except such Taxes, if any, as are
18 being contested in good faith and disclosed on the attached Schedule 4.08. Sellers and the
19 Company are not currently the beneficiary of any extension of time within which to file any Tax
20 Return. No claim has been made by a taxing authority of a jurisdiction where the Company does
21 not file Tax Returns that it is or may be subject to taxation in that jurisdiction. Without limiting
22 the foregoing, the Company has no liability for any Tax except (x) Taxes disclosed on Schedule
23 4.08, (y) Taxes fully reserved on the June 30, 1996 Balance Sheet, and (z) Taxes accrued after
24 June 30, 1996 and fully reserved on the Final Closing Balance Sheet. No Tax audit or
25 examination is now pending or currently in progress with respect to the Company.

26
27 (b) **Withholding.** The Company has withheld and paid all Taxes required to have been
28 withheld and paid in connection with amounts paid or owing to any employee, independent
29 contractor, creditor, stockholder or other third party.
30

31 **4.09 Inventory.** All of the inventory owned by the Company is valued on the books and
32 records of the Company and in the Financial Statements at lower of cost or market, the cost
33 thereof being determined on a FIFO and weighted average basis consistent with past practice.
34 All of the finished goods inventory of the Company is in good, merchantable and usable
35 condition and is salable in the ordinary course of business within a reasonable time and at normal
36 profit margins, and all of the raw materials and work-in-process inventory of the Company can
37 reasonably be expected to be consumed in the ordinary course of business within a reasonable
38 period of time. None of the Company's inventory is obsolete, slow-moving, or has been
39 consigned to others or is on consignment from others. In determining the obsolescence of
40 inventory, the parties acknowledge that resin will not be taken into account.
41

42 **4.10 Receivables.** Schedule 4.10, attached hereto, discloses all trade and other accounts
43 receivable of the Company ("Receivables") outstanding as of September 30, 1996 presented on
44 an aged basis and separately identifies the name of each account debtor and the total amount of
45 each related Receivable. All Receivables, whether reflected on the Financial Statements,
46 disclosed on Schedule 4.10 hereto or created after the date of the Financial Statements, arose
47 from *bona fide* sale transactions of the Company, and no portion of any Receivable is subject to
48 counterclaim, defense or set-off or is otherwise in dispute. Except to the extent of the recorded
49 reserve for doubtful accounts, all of the Receivables are collectible in the ordinary course of
50 business and will be fully collected within three hundred sixty five (365) days after having been

1 created using commercially reasonable efforts, except for contract reserves and retainages.

2
3 **4.11 Condition of Assets; Business; Title.**

4
5 (a) **Condition of Assets; Business.** The buildings, fixtures, improvements, machinery,
6 equipment, tools, furniture, improvements and tangible personal property of the Company are in
7 good operating condition and repair and are suitable for the purposes for which they are used in
8 the Business. The Company is engaged in the Business and no other business. The Company
9 has been engaged in the Business on a continuous basis for at least five years prior to the date of
10 this Agreement. All of the Company's assets are reflected on the Financial Statements or, under
11 Accounting Principles, are not required to be reflected thereon and include substantially all assets
12 that are necessary for use in and operation of the Business.

13
14 (b) **Title.** The Company has good and marketable title to all of its assets, free and clear
15 of all of Encumbrances, except for those Encumbrances disclosed in Schedule 4.11(b) attached
16 hereto.

17
18 **4.12 No Pending Litigation or Proceedings.** Except as described on Schedule 4.12, no
19 action, suit, investigation, claim or proceeding of any nature or kind whatsoever, whether civil,
20 criminal or administrative, by or before any Governmental Body or arbitrator ("Litigation") is
21 pending or, to the knowledge of Sellers and the Company, threatened against or affecting the
22 Company, the Business, any of the Company's assets, any of the Company Shares, or any of the
23 transactions contemplated by this Agreement or any Other Agreement, and there is no basis for
24 any Litigation. The Company has not been a party to any other Litigation during the past five (5)
25 years. There is presently no outstanding judgment, decree or order of any Governmental Body
26 against or affecting the Company, the Business, any of the Company's assets, any of the
27 Company Shares, or any of the transactions contemplated by this Agreement or any Other
28 Agreement. The Company does not have pending any Litigation against any third party.

29
30 **4.13 Contracts; Compliance.** Disclosed on Schedule 4.13, 4.15, 4.19, 4.20 or 4.21,
31 each of which are attached hereto, is a brief description of each contract, lease, indenture,
32 mortgage, instrument, commitment or other agreement, arrangement or understanding, oral or
33 written, formal or informal, to which the Company is a party or by which it or its assets may be
34 affected, except for service agreements whose annual contract price is less than US\$5,000, and
35 that (i) is material to the Business or the Company's assets or operations, individually or in the
36 aggregate, (ii) involves the purchase, sale or lease of any asset, materials, supplies, inventory or
37 services in excess of US\$5,000 per year, (iii) has an unexpired term of more than six (6) months
38 from the date hereof, taking into account the effect of any renewal options, (iv) relates to the
39 borrowing or lending of any money or guarantee of any obligation, (v) limits the right of the
40 Company to compete in any line of business or otherwise restricts any right the Company may
41 have, (vi) is an employment or consulting contract involving payment of compensation and
42 benefits, or (vii) was not entered into in the ordinary course (each, a "Contract" and collectively,
43 the "Contracts"). Each Contract is a legal, valid and binding obligation of the Company and is
44 in full force and effect. To the knowledge of Warrantors and the Company, the Company and
45 each other party to each Contract has performed all obligations required to be performed by it
46 thereunder and is not in breach or default, and is not alleged to be in breach or default, in any
47 respect thereunder, and no event has occurred and no condition or state of facts exists (or would
48 exist upon the giving of notice or the lapse of time or any of them) that would become or cause a
49 breach, default or event of default thereunder, would give to any Person the right to cause such a
50 termination or would cause an acceleration of any obligation thereunder. The Company is not
51 currently renegotiating any Contract in excess of US\$5,000, except as those Contracts disclosed

1 on Schedule 4.13 attached hereto, nor has the Company received any notice of non-renewal or
2 price increase or sales or production allocation with respect to any Contract.
3

4 **4.14 Permits: Compliance With Law.** The Company holds all permits, certificates,
5 licenses, franchises, privileges, approvals, registrations and authorizations required under any
6 applicable Law or otherwise advisable in connection with the operation of its assets and Business
7 (each, a "Permit" and collectively, "Permits"). Each Permit is valid, subsisting and in full force
8 and effect. The Company is in compliance with and has fulfilled and performed its obligations
9 under each Permit, and, to the knowledge of Warrantors and the Company, no event or condition
10 or state of facts exists (or would exist upon the giving of notice or lapse of time or any of them)
11 that could constitute a breach or default under any Permit. The Company has received no notice
12 of any violation of Law, and, to the knowledge of Sellers and the Company, has not been during
13 the past five (5) years nor is it currently in violation of any Law and has received no notice of
14 any violation of Law, and no event has occurred or condition or state of facts exists that could
15 give rise to any such violation other than as disclosed in Schedule 4.14. The Company has not
16 received any notice of non-renewal of any Permit.
17

18 **4.15 Real Property.** Schedule 4.15, attached hereto, discloses and summarizes all real
19 properties currently owned, used or leased by the Company or in which the Company has an
20 interest (collectively, the "Real Property") and identifies the record title holder of all of the Real
21 Property owned by Company. The Company has good and marketable fee simple title to (or a
22 leasehold interest in, as the case may be) all Real Property shown as owned by it on Schedule
23 4.15, free and clear of all Encumbrances, other than (i) easements, covenants, rights-of-way and
24 other encumbrances or restrictions of record, (ii) zoning restrictions, and (iii) liens for current
25 taxes not yet due, provided that any such Encumbrance in clauses (i), (ii) and (iii) does not either
26 adversely affect the value of the Real Estate or prohibit or interfere with the operations of the
27 Business. The Company has the right to quiet enjoyment of all Real Property in which it holds a
28 leasehold interest for the full term, including all renewal rights, of the lease or similar agreement
29 relating thereto. Copies of all title insurance policies written in favor of the Company and all
30 surveys relating to the Real Property owned or leased by the Company have been delivered to
31 Acquisition. All structures and other improvements on all Real Property owned by the Company
32 are within the lot lines and do not encroach on the properties of any other Person, and the use
33 and operation of all Real Property conform to all applicable building, zoning, safety and
34 subdivision Laws, Environmental Laws and other Laws, and all restrictive covenants and
35 restrictions and conditions affecting title. The Company has not received any written or oral
36 notice of assessments for public improvements or condemnation against any Real Property.
37

38 **4.16 Transactions With Related Parties.** No Related Party is or has been during the
39 past five (5) years a party to any transaction, agreement or understanding with the Company
40 except pursuant to arrangements disclosed on Schedule 4.16, attached hereto. No Related Party
41 uses any assets of the Company except directly in connection with the Business, and no Related
42 Party owns any asset used in the Business. No Related Party has any claim of any nature,
43 including any inchoate claim, against the Company, and the Company has no claim of any
44 nature, including any inchoate claim, against any Related Party. Except as disclosed on Schedule
45 4.16 attached hereto, as otherwise expressly provided hereby or by any Other Agreement or as
46 otherwise may be mutually agreed after Closing, (i) no Related Party will at any time after
47 Closing for any reason, directly or indirectly, be or become entitled to receive any payment or
48 transfer of money or other property of any kind from the Company, and (ii) the Company will
49 not at any time after Closing for any reason, directly or indirectly, be or become subject to any
50 obligation to any Related Party.

1
2 **4.17 Labor Relations.** No employee of the Company is represented by any union or
3 other labor organization. No representation election, arbitration proceeding, grievance, labor
4 strike, dispute, slowdown, stoppage or other labor trouble is pending or, to the knowledge of
5 Warrantors or the Company, threatened against, involving, affecting or potentially affecting the
6 Company. No complaint against the Company is pending or, to the knowledge of Sellers or the
7 Company, threatened before the National Labor Relations Board, the Equal Employment
8 Opportunity Commission or any similar state or local agency, by or on behalf of any employee of
9 the Company. The Company has no contingent liability for sick leave, severance pay or any
10 similar item. Except as reflected in the Financial Statements on the attached Schedule 4.17, the
11 Company has no contingent liabilities for employee vacation time or commissions payable. To
12 the knowledge of Sellers and the Company, the Company has no contingent liability for any
13 occupational disease of any of its employees, former employees or others. Neither the execution
14 and delivery of this Agreement, the performance of the provisions hereof nor the consummation
15 of the transactions contemplated hereby will trigger any severance pay obligation under any
16 contract or under any Law.

17
18 **4.18 Products Liability; Warranties.** The Company shall have no liability known to it
19 after the Closing Date not fully covered by insurance or warranties relating to any product
20 manufactured, distributed or sold by the Company prior to the Closing Date, whether or not such
21 liability relates to products that are defective or improperly designed or manufactured or in
22 breach of any express or implied product warranty greater than \$500 per claim or \$10,000 in the
23 aggregate. The attached Schedule 4.18 discloses and describes the terms of all express product
24 warranties under which the Company may have liability after the Closing Date.

25
26 **4.19 Insurance.** The attached Schedule 4.19 discloses all insurance policies with respect
27 to which the Company is the owner, insured or beneficiary. Such policies are reasonable, in both
28 scope and amount, in light of the risks attendant to the Business. The Company will not have
29 any liability after the Closing for retrospective or retroactive premium adjustments, except as
30 disclosed in the attached Schedule 4.19. For the past five (5) years, all insurance policies
31 covering products liability and general liability maintained by or for the benefit of the Company
32 have been "occurrence" policies and not "claims made" policies. The attached Schedule 4.19
33 discloses the manner in which the Company provides coverage for workers' compensation
34 claims.

35
36 **4.20 Intellectual Property Rights.** The attached Schedule 4.20 discloses all of the
37 trademark and service mark rights, applications and registrations, trade names, fictitious names,
38 service marks, logos and brand names, copyrights, copyright applications, letters patent, patent
39 applications and licenses of any of the foregoing owned or used by the Company in or applicable
40 to the Business. The Company has the entire right, title and interest in and to, or has the
41 exclusive perpetual royalty-free right to use, the intellectual property rights disclosed on the
42 attached Schedule 4.20 and all other processes, know-how, show-how, formulae, trade secrets,
43 inventions, discoveries, improvements, blueprints, specifications, drawings, designs, and other
44 proprietary rights necessary or applicable to or advisable for use in the Business ("Intellectual
45 Property"), free and clear of all Encumbrances. The attached Schedule 4.20 separately discloses
46 all Intellectual Property under license. The Intellectual Property is valid and not the subject of
47 any interference, opposition, re-examination or cancellation. To the knowledge of Sellers or the
48 Company, no Person is infringing upon nor has any Person misappropriated any Intellectual
49 Property. The Company is not infringing upon the intellectual property rights of any other
50 Person.
51

4.21 Employee Benefits.

(a) **Benefit Plans: Company Plans.** The attached Schedule 4.21 discloses all written and unwritten "employee benefit plans" within the meaning of Section 3(3) of ERISA, and any other written and unwritten profit sharing, pension, savings, deferred compensation, fringe benefit, insurance, medical, medical reimbursement, life, disability, accident, post-retirement health or welfare benefit, stock option, stock purchase, sick pay, vacation, employment, severance, termination or other plan, agreement, contract, policy, trust fund or arrangement (each, a "Benefit Plan"), whether or not funded and whether or not terminated, (i) maintained or sponsored by the Company, or (ii) with respect to which the Company (or Sellers with respect to the Company) has or may have liability or is obligated to contribute, or (iii) that otherwise covers any of the current or former employees of the Company or their beneficiaries, or (iv) as to which any such current or former employees or their beneficiaries participated or were entitled to participate or accrue or have accrued any rights thereunder (each, a "Company Plan").

(b) **Company Group Matters: Funding.** Neither the Company nor any corporation that may be aggregated with the Company under Sections 414(b), (c), (m) or (o) of the Code (the "Company Group") has any obligation to contribute to or any direct or indirect liability under or with respect to any Benefit Plan of the type described in Sections 4063 and 4064 of ERISA or Section 413(c) of the Code. The Company does not have any liability, and after the Closing the Company will not have any liability, with respect to any Benefit Plan of any other member of the Company Group, whether as a result of delinquent contributions, distress terminations, fraudulent transfers, failure to pay premiums to the PBGC, withdrawal liability or otherwise. No accumulated funding deficiency (as defined in Section 302 of ERISA and Section 412 of the Code) exists nor has any funding waiver from the IRS been received or requested with respect to any Company Plan or any Benefit Plan of any member of the Company Group and no excise or other Tax is due or owing because of any failure to comply with the minimum funding standards of the Code or ERISA with respect to any of such plans.

(c) **Compliance.** To the best of the Company's knowledge, each of the Company Plans and all related trusts, insurance contracts and funds have been created, maintained, funded and administered in all respects in compliance with all applicable Laws and in compliance with the plan document, trust agreement, insurance policy or other writing creating the same or applicable thereto. No Company Plan is or is proposed to be under audit or investigation, and no completed audit of any Company Plan has resulted in the imposition of any Tax, fine or penalty.

(d) **Qualified Plans.** The attached Schedule 4.21 discloses each Company Plan that purports to be a qualified plan under Section 401(a) of the Code and exempt from United States federal income tax under Section 501(a) of the Code (a "Qualified Plan"). With respect to each Qualified Plan, a determination letter (or opinion or notification letter, if applicable) has been received from the IRS that such plan is qualified under Section 401(a) of the Code and exempt from federal income tax under Section 501(a) of the Code. No Qualified Plan has been amended since the date of the most recent such letter. No member of the Company Group, nor any fiduciary of any Qualified Plan, nor any agent of any of the foregoing, has done anything that would adversely affect the qualified status of a Qualified Plan or the qualified status of any related trust.

(e) **No Defined Benefit Plans.** No Company Plan is a defined benefit plan within the meaning of Section 3(35) of ERISA (a "Defined Benefit Plan"). No Defined Benefit Plan sponsored or maintained by any member of the Company Group has been terminated or partially terminated after September 1, 1974, except as set forth on Schedule 4.21. Each Defined Benefit

1 Plan identified as terminated on Schedule 4.21 has met the requirement for standard termination
2 of single-employer plans contained in Section 4041(b) of ERISA. During the five (5) year period
3 ending on the Closing Date, no member of the Company Group has transferred a Defined Benefit
4 Plan to a corporation that was not, at the time of transfer, related to the transferor in any manner
5 described in Sections 414(b), (c), (m) or (o) of the Code.
6

7 (f) Multiemployer Plans. No Company Plan is a Multiemployer plan within the
8 meaning of Section 3(37) or Section 4001(a)(3) of ERISA (a "Multiemployer Plan"). No
9 member of the Company Group has withdrawn from any Multiemployer Plan or incurred any
10 withdrawal liability to or under any Multiemployer Plan. No Company Plan covers any
11 employees of any member of the Company Group in any foreign country or territory.
12

13 (g) Prohibited Transactions; Fiduciary Duties; Post-Retirement Benefits. No
14 prohibited transaction (within the meaning of Section 406 of ERISA and Section 4975 of the
15 Code) with respect to any Company Plan exists or has occurred that could subject the Company
16 to any liability or Tax under Part 5 of Title I of ERISA or Section 4975 of the Code. No
17 member of the Company Group, nor any administrator or fiduciary of any Company Plan, nor
18 any agent of any of the foregoing, has engaged in any transaction or acted or failed to act in a
19 manner that will subject the Company to any liability for a breach of fiduciary or other duty
20 under ERISA or any other applicable Law. With the exception of the requirements of Section
21 4980B of the Code, no post-retirement benefits are provided under any Company Plan that is a
22 welfare benefit plan as described in ERISA Section 3(1).
23

24 4.22 Environmental Matters.

25
26 (a) Compliance; No Liability. To the best knowledge of Company and Warrantors, the
27 Company has operated the Business and each parcel of Real Property in compliance with all
28 applicable Environmental Laws. The Company is not subject to any liability, penalty or expense
29 (including legal fees) and will not hereafter suffer or incur any loss, liability, penalty or expense
30 (including legal fees) by virtue of any violation of any Environmental Law occurring prior to the
31 Closing, any environmental activity conducted by the Company prior to Closing or any
32 environmental condition affecting the Company or the Business and existing prior to Closing, in
33 each case whether or not the Company permitted or participated in such act, omission or
34 condition.
35

36 (b) Treatment; CERCLIS. To the best knowledge of Company and Warrantors, the
37 Company has not treated, stored, recycled or disposed of any Regulated Material on any real
38 property, except in compliance with all applicable Environmental Laws. No other Person has
39 treated, stored, recycled or disposed of any Regulated Material on any part of the Real Property.
40 The Company has not transported any Regulated Material or arranged for the transportation of
41 any Regulated Material to any location that is listed or proposed for listing on the National
42 Priorities List pursuant to Superfund, on CERCLIS or any other location that is the subject of
43 federal, state or local enforcement action or other investigation that may lead to claims against the
44 Company for cleanup costs, remedial action, damages to natural resources, to other property or
45 for personal injury including claims under Superfund. None of the Real Property is listed or, to
46 the knowledge of Seller or the Company, proposed for listing on the National Priorities List
47 pursuant to Superfund, CERCLIS or any state or local list of sites requiring investigation or
48 cleanup.
49

1 (c) Notices; Existing Claims; Certain Regulated Materials; Storage Tanks. The
2 Company has not received any request for information, notice of claim, demand or other
3 notification that it is or may be potentially responsible with respect to any investigation,
4 abatement or cleanup of any threatened or actual release of any Regulated Material. The
5 Company is not required to place any notice or restriction relating to the presence of any
6 Regulated Material at any Real Property or in any deed to any Real Property. The Company has
7 provided to Acquisition a list of all sites to which the Company has transported any Regulated
8 Material for recycling, treatment, disposal, other handling or otherwise. There has been no past,
9 and there is no pending or contemplated, claim by the Company under any Environmental Law
10 or Laws based on actions of others that may have impacted on the Real Property, and the
11 Company has not entered into any agreement with any Person regarding any Environmental Law,
12 remedial action or other environmental liability or expense. All storage tanks located on the Real
13 Property, whether underground or aboveground, are disclosed on Schedule 4.22, and all such
14 tanks and associated piping are in sound condition and are not leaking and have not leaked.

15
16 (d) Seller's Disclosure. Attached as Schedule 4.22 are certain matters known by Sellers
17 relating to compliance with Environmental Laws by the Company. This is being provided by
18 Sellers for information purposes only. Sellers and the Company hereby warrant and represent to
19 Acquisition that neither the Acquisition nor the Company will incur any loss, liability, damage,
20 cost or expense associated with the items disclosed on Schedule 4.22 or in connection with any
21 actual, threatened, claimed, alleged violation or noncompliance with or of Environmental Laws
22 or any investigation relating to the same.

23
24 4.23 Customer Relations. Except as set forth on Schedule 4.23, to the knowledge of
25 Warrantors and Company, the Company has not received any written or oral complaints, nor is
26 involved in any dispute, involving the Company's customers, suppliers, distributors or sales
27 representatives that the Company or Seller can reasonably foresee could have a material adverse
28 effect the Business after the Closing Date.

29
30 4.24 Investment Representation. Sellers have no intention of selling the USF Shares or
31 any interest therein in violation of the federal securities Laws or any applicable state securities
32 Laws. During the course of the negotiation of this Agreement, Sellers have reviewed all
33 information provided to them by Acquisition and have had the opportunity to ask questions of
34 and receive answers from representatives of Acquisition concerning Acquisition, USF and the
35 USF Shares and to obtain certain additional information requested of Acquisition.

36
37 4.25 Finders' Fees. Neither Sellers nor the Company nor any of the respective officers,
38 directors or employees of the Company has employed any broker or finder or incurred any
39 liability for any brokerage fee, commission or finders' fee in connection with any of the
40 transactions contemplated hereby or by any Other Agreement.

41
42 4.26 Disclosure. None of the representations or warranties of Sellers and the Company
43 contained herein and none of the information contained in the Schedules referred to in Article IV
44 is false or misleading in any material respect or omits to state a fact herein or therein necessary to
45 make the statements herein or therein not misleading in any material respect.

46
47 **ARTICLE V**
48 **REPRESENTATIONS AND WARRANTIES OF ACQUISITION**

49 As an inducement to Sellers to enter into this Agreement and consummate the transactions
50

1 contemplated hereby, each of USF and Acquisition jointly and severally represents and warrants
2 to Sellers as follows:
3

4 **5.01 Organization.** USF and Acquisition are corporations duly organized, validly
5 existing and in good standing under the laws of the State of Delaware and the Commonwealth of
6 Massachusetts, respectively, and each of USF and Acquisition has the corporate power and
7 authority to own or lease its properties, carry on its business, enter into this Agreement and the
8 Other Agreements to which it is or is to become a party and perform its obligations hereunder
9 and thereunder.
10

11 **5.02 Authorization: Enforceability.** This Agreement and each Other Agreement to
12 which Acquisition or USF is a party, respectively, have been duly executed and delivered by and
13 constitute the legal, valid and binding obligations of Acquisition and USF, respectively,
14 enforceable in accordance with their respective terms. Each Other Agreement to which
15 Acquisition and USF is to become a party pursuant to the provisions hereof, when executed and
16 delivered by Acquisition or USF, will constitute the legal, valid and binding obligation of
17 Acquisition and USF, respectively, enforceable against Acquisition and USF, as appropriate, in
18 accordance with the terms of such Other Agreement. All actions contemplated by this Section
19 have been duly and validly authorized by all necessary proceedings by Acquisition and USF.
20

21 **5.03 No Violation of Laws; Consents.** Neither the execution and delivery of this
22 Agreement or any Other Agreement to which Acquisition or USF is or is to become a party, the
23 consummation of the transactions contemplated hereby or thereby nor the compliance with or
24 fulfillment of the terms, conditions or provisions hereof or thereof by Acquisition or USF will:
25 (i) contravene any provision of the Governing Documents of Acquisition or USF, or (ii) violate
26 any Law or any judgment or order of any Governmental Body to which Acquisition or USF is
27 subject or by which any of its assets may be bound or affected. Except for listing of the USF
28 Shares on the NYSE, the effectiveness of the Shelf Registration Statement and approval of the
29 transactions contemplated hereby by the boards of directors of USF and Acquisition, no consent,
30 approval or authorization of, or registration or filing with, any Person is required in connection
31 with the execution or delivery by Acquisition of this Agreement or any of the Other Agreements
32 to which Acquisition is or is to become a party pursuant to the provisions hereof or the
33 consummation by Acquisition of the transactions contemplated hereby or thereby.
34

35 **5.04 No Pending Litigation or Proceedings.** No Litigation is pending or, to the
36 knowledge of Acquisition, threatened against or affecting Acquisition in connection with any of
37 the transactions contemplated by this Agreement or any Other Agreement to which Acquisition is
38 or is to become a party. There is presently no outstanding judgment, decree or order of any
39 Governmental Body against or affecting Acquisition in connection with the transactions
40 contemplated by this Agreement or any Other Agreement to which Acquisition is or is to become
41 a party.
42

43 **5.05 Capitalization.** The authorized capital stock of USF consists of 50,000,000 shares
44 of common stock. The authorized capital stock of Acquisition consists of 100 shares of common
45 stock, par value \$0.01 per share. The USF Shares to be issued to Sellers pursuant to this
46 Agreement will be duly authorized, validly issued, fully paid and nonassessable and not subject to
47 preemptive rights created by statute, USF's Certificate of Incorporation or by-laws or any
48 agreement to which Acquisition is a party or is bound.
49

50 **5.06 Finders' Fees.** Neither Acquisition nor any of its officers, directors or employees
51 has employed any broker or finder or incurred any liability for any brokerage fee, commission or

finders' fee in connection with any of the transactions contemplated hereby.

5.07. Registered Shares. The Shelf Registration Statement is effective under the Securities Act and the USF Shares delivered in payment of the Merger Consideration shall be listed on the NYSE.

ARTICLE VI CERTAIN COVENANTS

6.01 Conduct of Business Pending Closing. From and after the date hereof and until the Closing Date, unless Acquisition shall otherwise consent in writing, the Company shall, and Sellers shall cause the Company to, conduct its affairs as follows:

(a) **Ordinary Course; Compliance.** The Business shall be conducted only in the ordinary course and consistent with past practice. The Company shall maintain its property, equipment and other assets consistent with past practice and shall comply in a timely fashion with the provisions of all Contracts and Permits and its other agreements and commitments. The Company shall use its best efforts to keep its business organization intact, keep available the services of its present employees and preserve the goodwill of its suppliers, customers and others having business relations with it. The Company shall maintain in full force and effect the policies of insurance disclosed on Schedule 4.19, subject only to variations required by the ordinary operations of the Business, or else shall obtain, prior to the lapse of any such policy, substantially similar coverage with insurers of recognized standing.

(b) **Transactions.** The Company shall not: (i) amend its Governing Documents; (ii) change its authorized or issued capital stock or issue any Security Rights with respect to shares of its capital stock; (iii) enter into any contract or commitment the performance of which may extend beyond the Closing, except those made in the ordinary course of business, the terms of which are consistent with past practice; (iv) enter into any employment or consulting contract or arrangement that is not terminable at will and without penalty or continuing obligation; (v) fail to pay any Tax or any other liability or charge when due, other than charges contested in good faith by appropriate proceedings; (vi) make, change or revoke any Tax election or make any agreement or settlement with any taxing authority; (vii) take any action or omit to take any action that will cause a breach or termination of any Contract, other than termination by fulfillment of the terms thereunder; or (viii) increase any employee's salary, wage, benefits or bonus, or increase the number of employees of Company.

6.02 Access, Information and Documents. Sellers and the Company shall give to Acquisition and to Acquisition's employees and representatives (including accountants, actuaries, attorneys, environmental consultants and engineers) access during normal business hours to all of the properties, books, Tax Returns, contracts, commitments, records, officers, personnel and accountants (including independent public accountants and their audit workpapers concerning the Company) of the Company and shall furnish to Acquisition all such documents and copies of documents and all information with respect to the properties, liabilities and affairs of the Company as Acquisition may reasonably request.

6.03 Covenant Not to Compete.

(a) **Restriction.** For a period of two (2) years from and after the Closing Date, D. Roszel shall not, (and for a period of 6 months from and after the Closing Date, N. Roszel, Mowry, G. Jasper, S.P. Roszel and Weeks shall not), except as an officer or employee of USF,

1 Acquisition, the Company or their Affiliates, directly or indirectly, own, manage, operate, join,
2 control or participate in the ownership, management, operation or control of, or be employed or
3 otherwise connected as an officer, employer, stockholder, partner or otherwise with, any
4 business that at any relevant time during such period directly or indirectly competes with the
5 Business in Florida, Alabama, and any other state where the Company operates the Business.
6 Ownership of not more than 2% of the outstanding stock of any publicly traded company shall
7 not be a violation of this Section 6.03.

8
9 (b) Enforcement. The restrictive covenant contained in this Section is a covenant
10 independent of any other provision of this Agreement and the existence of any claim that Seller
11 may allege against any other party to this Agreement, whether based on this Agreement or
12 otherwise, shall not prevent the enforcement of this covenant. Sellers agree that USF's or
13 Company's remedies at law for any breach or threat of breach by Sellers of the provisions of this
14 Section will be inadequate, and that USF or Company shall be entitled to an injunction or
15 injunctions to prevent breaches of the provisions of this Section and to enforce specifically the
16 terms and provisions hereof, in addition to any other remedy to which USF or Company may be
17 entitled at law or equity. In the event of litigation regarding this covenant not to compete, the
18 prevailing party in such litigation shall, in addition to any other remedies the prevailing party
19 may obtain in such litigation, be entitled to recover from the other party its reasonable legal fees
20 and out of pocket costs incurred by such party in enforcing or defending its rights hereunder.
21 The length of time for which this covenant not to compete shall be in force shall not include any
22 period of violation or any other period required for litigation during which USF or Company
23 seeks to enforce this covenant. Should any provision of this Section be adjudged to any extent
24 invalid by any competent tribunal, such provision will be deemed modified to the extent
25 necessary to make it enforceable.

26
27 6.04 Publicity. Sellers shall not issue any press release or otherwise make any
28 announcements to the public or the employees or the Company or any Subsidiary with respect to
29 this Agreement without the prior written consent of the Acquisition, except as required by Law.
30 Without limiting the generality of the foregoing, the identity of USF and Acquisition and the
31 terms of this transaction shall in no event be disclosed publicly or to any party without
32 Acquisition's prior written consent.

33
34 6.05 Fulfillment of Agreements. Each party hereto shall use its best efforts to cause all
35 of those conditions to the obligations of the other under Article VII that are not beyond its
36 reasonable control to be satisfied on or prior to the Closing and shall use its best efforts to take,
37 or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or
38 advisable to consummate and make effective the transactions contemplated by this Agreement. If
39 requested by USF, Sellers shall effect any transfer or sale of the USF Shares through DLJ or as
40 otherwise mutually agreed by the parties.

41 ARTICLE VII

42 CONDITIONS TO CLOSING; TERMINATION

43
44
45 7.01 Conditions Precedent to Obligation of Acquisition. The obligation of Acquisition
46 to proceed with the Closing under this Agreement is subject to the fulfillment prior to or at
47 Closing of the following conditions, any one or more of which may be waived in whole or in part
48 by Acquisition at Acquisition's sole option:

49
50 (a) Bringdown of Representations and Warranties; Covenants. Each of the
51 representations and warranties of Sellers and the Company contained in this Agreement shall be

1 true and correct in all material respects on and as of the Closing Date, with the same force and
2 effect as though such representations and warranties had been made on, as of and with reference
3 to the Closing Date. Each of Sellers and the Company shall have performed in all respects all of
4 the covenants and complied with all of the provisions required by this Agreement to be
5 performed or complied with by it at or before the Closing.
6

7 (b) Litigation. No statute, regulation or order of any Governmental Body shall be in
8 effect that restrains or prohibits the transactions contemplated hereby or that would limit or
9 adversely affect Acquisition's ownership of the Company Shares or control of the Company, and
10 there shall not have been threatened, nor shall there be pending, any action or proceeding by or
11 before any Governmental Body challenging the lawfulness of or seeking to prevent or delay any
12 of the transactions contemplated by this Agreement or any of the Other Agreements or seeking
13 monetary or other relief by reason of the consummation of any of such transactions.
14

15 (c) No Material Adverse Change. Between the date hereof and the Closing Date, there
16 shall have been no material adverse change, regardless of insurance coverage therefor, in the
17 Business or any of the assets, results of operations, liabilities, prospects or condition, financial or
18 otherwise, of the Company.
19

20 (d) Listing on NYSE. The USF Shares shall have been authorized for listing on the
21 NYSE, subject to official notice of issuance.
22

23 (e) Title Insurance. Acquisition shall have obtained for all Real Property owned by the
24 Company and all material leasehold interests held (or to be held pursuant to this transaction) by
25 the Company final marked commitments to issue to Acquisition ALTA (1990-Form B with
26 appropriate state endorsements) owner's policies of title insurance in coverage amounts equal to
27 the fair market values of such Real Property or leasehold interests, insuring good and marketable
28 title fee simple title to such Real Property and good title to such leasehold interests with
29 mechanic's liens coverage and such endorsements as Acquisition may have reasonably requested
30 and with exceptions only for (i) ALTA standard printed exceptions (other than mechanic's and
31 materialmen's liens and rights of possession), and (ii) other Encumbrances acceptable to
32 Acquisition.
33

34 (f) Compliance with Environmental Laws. Acquisition and USF shall have obtained
35 satisfactory assurances from Sellers and the Company that all matters relating to compliance with
36 Environmental Laws by the Company or any Related Party have been resolved, attended to or
37 otherwise addressed so that the Company is in compliance with Environmental Laws prior to the
38 Closing Date. If Acquisition has determined that remediation is required, such remediation shall
39 have been accomplished to the satisfaction of Acquisition at the cost and expense of Sellers, or
40 Sellers shall have provided adequate funding for such remediation as determined by Acquisition.
41

42 (g) Disposition of Real Property. The Company shall have sold all of its interest in the
43 Orlando Real Property and terminated the Pensacola Real Property Lease, in each case on terms
44 and conditions satisfactory to Acquisition and without any further liability or obligation of the
45 Company.
46

47 (h) Employment Agreement. D. Roszel and G. Jasper shall have executed and
48 delivered Employment Agreements in form and substance satisfactory to Acquisition and D.
49 Roszel and G. Jasper, as the case may be.
50

51 (i) Lease of Gainesville Real Property. The Gainesville Real Property shall have been

1 leased to Surviving Corporation at fair market value and on terms acceptable to Acquisition and
2 Sellers in accordance with the Agreement attached hereto as Exhibit 7.01(i).

3
4 (j) Approval of Board of Directors. The Board of Directors of Acquisition shall have
5 authorized this Agreement and the transactions contemplated hereby.

6
7 (k) Compliance with Permits. The Company and its operations shall be in full
8 compliance with all applicable permits.

9
10 (l) Surveys. With respect to all Real Property owned or leased (or to be leased pursuant
11 to this transaction) by the Company, Acquisition shall have received surveys of such property
12 which conform to the standards set forth in the ALTA/American Congress on Surveying and
13 Mapping Minimum Standard Detail Requirements for Land Title Surveys and which disclose no
14 state of facts inconsistent with the representations and warranties of Sellers and the Company set
15 forth in Section 4.15.

16
17 (m) Closing Certificate; Closing Documents. Sellers shall have delivered a certificate,
18 dated the Closing Date, in such detail as Acquisition shall request, certifying to the fulfillment of
19 the conditions set forth in subparagraphs (a), (b), (c) and (f) of this Section 7.01. Such certificate
20 shall constitute a representation and warranty of each Seller with regard to the matters therein for
21 purposes of this Agreement. Acquisition shall have received the other documents referred to in
22 Section 7.03. All agreements, certificates, opinions and other documents delivered by Sellers or
23 the Company to Acquisition hereunder shall be in form and substance satisfactory to counsel for
24 Acquisition, in the exercise of such counsel's reasonable professional judgment.

25
26 (n) Environmental Assessment. Acquisition shall be satisfied that the environmental
27 condition of the Real Property is acceptable based upon environmental assessments conducted by
28 Acquisition. All such assessments shall be at the sole expense of Acquisition.

29
30 (o) Other Assessments and Reviews. Acquisition shall be satisfied with all matters
31 relating to Company and the Business, including without limitation (i) all contracts, agreements,
32 warranties, leases and licenses relating to Company or the Business, (ii) the financial status of
33 Company, and (iii) all Company books and records.

34
35 (p) Private Placement. Buyer shall be satisfied that there shall be a valid private
36 placement of the USF Shares included in the Purchase Price to be delivered pursuant to this
37 Agreement under Rule 506 under the Securities Act and under any applicable state securities
38 laws, including representations and questionnaires or both from each Seller to the effect that he is
39 an accredited investor under the Securities Act and has such knowledge and experience in
40 financial and business matters that would permit him to be capable of evaluating the merits and
41 risks of an investment in the USF Shares.

42
43 7.02 Conditions Precedent to Obligation of Sellers. The obligation of Sellers to
44 proceed with the Closing under this Agreement is subject to the fulfillment prior to or at Closing
45 of the following conditions, any one or more of which may be waived in whole or in part by
46 Seller at Seller's sole option:

47
48 (a) Bringdown of Representations and Warranties; Covenants. Each of the
49 representations and warranties of Acquisition contained in this Agreement shall be true and
50 correct in all material respects on and as of the Closing Date, with the same force and effect as

1 though such representations and warranties had been made on, as of and with reference to the
2 Closing Date. Acquisition shall have performed all of the covenants and complied in all respects
3 with all of the provisions required by this Agreement to be performed or complied with by it at
4 or before the Closing.

5
6 (b) Litigation. No statute, regulation or order of any Governmental Body shall be in
7 effect that restrains or prohibits the transactions contemplated hereby, and there shall not have
8 been threatened, nor shall there be pending, any action or proceeding by or before any
9 Governmental Body challenging the lawfulness of or seeking to prevent or delay any of the
10 transactions contemplated by this Agreement or the Other Agreements or seeking monetary or
11 other relief by reason of the consummation of such transactions.

12
13 (c) Closing Certificate. Acquisition shall have delivered a certificate, dated the Closing
14 Date, in such detail as Seller shall request, certifying to the fulfillment of the conditions set forth
15 in subparagraphs (a) and (b) of this Section 7.02. Such certificate shall constitute a representation
16 and warranty of Acquisition with regard to the matters therein for purposes of this Agreement.
17 Sellers and the Company shall have received the other documents referred to in Section 7.04.
18 All agreements, certificates, opinions and other documents delivered by Acquisition to Sellers or
19 the Company hereunder shall be in form and substance satisfactory to counsel for Sellers and the
20 Company, in the exercise of such counsel's reasonable professional judgment.

21
22 (d) Listing on NYSE. The USF Shares shall have been authorized for listing on the
23 NYSE, subject to official notice of issuance.

24
25 (e) INTENTIONALLY DELETED

26
27 (f) Closing Documents. Seller shall also have received the other documents referred to
28 in Section 7.04. All agreements, certificates, opinions and other documents delivered by
29 Acquisition to Seller hereunder shall be in form and substance satisfactory to counsel for Seller,
30 in the exercise of such counsel's reasonable professional judgment.

31
32 (g) Gainesville Property. Acquisition shall have agreed to the lease described in Section
33 7.01 (i).

34
35 (h) Tax Free Reorganization. Within seven (7) days following the date of this
36 Agreement, Seller shall have obtained at Sellers' expense such opinions and assurances as shall
37 be reasonably satisfactory to Seller that the transactions contemplated hereby constitute a
38 reorganization within the meaning of Section 368(a)(2)(E) of the Internal Revenue Code, as
39 amended.

40
41 (i) Payment of Certain Obligations. Acquisition shall have paid in full the Company's
42 Bank Debt and the Company/Seller Payables.

43
44 (j) Employment Agreements. D. Roszel and G. Jasper shall have executed and
45 delivered an Employment Agreement in form and substance satisfactory to USF, D. Roszel and
46 G. Jasper, as the case may be.

47
48 7.03 Deliveries at the Closing by Sellers. Sellers shall deliver or cause to be delivered
49 to Acquisition at the Closing:
50

1 (a) Certificates representing the Company Shares duly endorsed in negotiable
2 form or accompanied by stock powers duly executed in blank with all transfer taxes, if any, paid
3 in full.

4
5 (b) Certificates of the appropriate public officials to the effect that the Company
6 was a validly existing corporation in good standing in its state of incorporation as of a date not
7 more than ten (10) days prior to the Closing Date.

8
9 (c) Incumbency and specimen signature certificates dated the Closing Date,
10 signed by the officers of the Company and certified by its Secretary.

11
12 (d) True and correct copies of (A) the Governing Documents (other than the
13 bylaws) of the Company as of a date not more than ten (10) days prior to the Closing Date,
14 certified by the Secretaries of State of their respective states of incorporation and (B) the bylaws
15 of the Company as of the Closing Date, certified by its Secretary.

16
17 (e) Certificates of the Secretary of the Company (A) setting forth all resolutions
18 of the Board of Directors of the Company and, if necessary, the stockholders, authorizing the
19 execution and delivery of this Agreement and the performance by the Company of the
20 transactions contemplated hereby, and (B) to the effect that the Governing Documents of the
21 Company, as the case may be, delivered pursuant to Section 7.03(d) were in effect at the date of
22 adoption of such resolutions, the date of execution of this Agreement and the Closing Date.

23
24 (f) General releases by all officers and directors of the Company and by each
25 Seller of all liability of the Company or any Subsidiary to them and of any claim that they or any
26 of them may have against the Company (exclusive of pension obligations).

27
28 (g) The minute books, stock ledgers and corporate seal of the Company.

29
30 (h) The opinion of Bruce Brashear, Esquire, legal counsel to Sellers and the
31 Company, in substantially the form of Exhibit 7.03(h).

32
33 (i) Resignations of the officers and directors of the Company effective at the
34 Closing.

35
36 (j) The assignment of stock certificate described in Section 8.04(b).

37
38 (k) A settlement and general release in a form acceptable to Buyer executed by N.
39 Roszel in favor of Company and Buyer relating to the Employment/Deferred Compensation
40 Revised Agreement between Company and N. Roszel effective June 1, 1995 and/or any similar
41 agreements.

42
43 (l) Such other agreements and documents as Acquisition may reasonably request.

44
45 **7.04 Deliveries at the Closing by Acquisition.** Acquisition shall deliver or cause to be
46 delivered to Sellers at the Closing:

47
48 (a) Stock certificates evidencing the USF Shares duly endorsed in the name of the
49 Sellers and registered at the address of the Sellers identified in Section 9.03 using the respective
50 Sellers' Federal tax identification numbers.

1 (b) A certificate of the appropriate public official to the effect that Acquisition is a
2 validly existing corporation in the State of Massachusetts as of a date not more than ten (10) days
3 prior to the Closing Date.

4
5 (c) Incumbency and specimen signature certificates signed by the officers of
6 Acquisition and certified by the Secretary or Assistant Secretary of Acquisition.

7
8 (d) The opinion of Michael E. Hulme, Esq., Counsel to Acquisition, in
9 substantially the form of Exhibit 7.04(d).

10
11 (e) Subject to Section 8.04(b), the delivery to the Sellers, *pro rata*, of the USF
12 Shares.

13
14 (f) Such other agreements and documents as Seller may reasonably request.

15
16 **7.05 Termination.** This Agreement may be terminated at any time prior to Closing by:
17 (i) mutual consent of Acquisition, Sellers and the Company; (ii) Acquisition, if any of the
18 conditions specified in Section 7.01 hereof shall not have been fulfilled by January 20, 1997 and
19 shall not have been waived by Acquisition; or (iii) Sellers, if any of the conditions specified in
20 Section 7.02 hereof shall not have been fulfilled by January 20, 1997, and shall not have been
21 waived by Sellers. In the event of termination of this Agreement by Sellers or Acquisition
22 pursuant to paragraph 7.05(ii) or (iii), the Franchise Agreement shall thereafter be null and
23 without further force and effect provided that such termination shall not affect the terms of such
24 agreement surviving or required upon termination or expiration.

25
26 **7.06 Investment Advisor.** In the event that Sellers are not "accredited investors" or
27 "qualified investors" pursuant to the Securities Act, (a) Sellers, or any one or more of them, may
28 select and retain an investment advisor or representative of their choosing to assist them at such
29 Sellers' sole cost and expense or (b) Sellers may select an investment advisor or representative
30 provided by Acquisition, the fees and costs associated with the employment of such investment
31 advisor shall be paid by Acquisition.

32
33 **ARTICLE VIII**
34 **SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION**
35

36 **8.01 Survival of Representations.** All representations, warranties and agreements made
37 by any party in this Agreement or pursuant hereto shall survive the Closing, but all claims for
38 damages made by virtue of such representations, warranties and agreements shall be made under,
39 and subject to the limitations set forth in, this Article VIII. The representations and warranties
40 set forth in Articles IV and V are cumulative, and any limitation or qualification set forth in any
41 one representation and warranty therein shall not limit or qualify any other representation and
42 warranty therein. After the Closing, the Company shall have no liability to Sellers for any
43 breach of any representation or warranty made by Sellers or the Company to Acquisition in this
44 Agreement, in any certificate or document furnished pursuant hereto by Sellers or the Company
45 or any Other Agreement to which Sellers or the Company, or any of them, is or is to become a
46 party other than D. Roszel's Employment Agreement with Surviving Corporation.

47
48 **8.02 Indemnification by Sellers.** Notwithstanding any term in this Agreement to the
49 contrary, Sellers, and, if there shall be no Closing, the Company, shall indemnify, defend, save
50 and hold Acquisition, USF and Surviving Corporation and its officers, directors, employees,

1 agents and Affiliates (including, after the Closing, the Company; collectively, "Acquisition
2 Indemnitees") harmless from and against all demands, claims, allegations, assertions, actions or
3 causes of action, assessments, losses, damages, deficiencies, liabilities, costs and expenses
4 (including reasonable legal fees, interest, penalties, and all reasonable amounts paid in
5 investigation, defense or settlement of any of the foregoing, whether or not the underlying
6 demands, claims, allegations, etc., of third parties are meritorious; collectively, "Acquisition
7 Damages") asserted against, imposed upon, resulting to, required to be paid by or incurred by
8 any Acquisition Indemnitees, directly or indirectly, in connection with, arising out of, which
9 could result in, or which would not have occurred but for, (i) a breach of any representation or
10 warranty made by Sellers or the Company in this Agreement, in any certificate or document
11 furnished pursuant hereto by Sellers or the Company or any Other Agreement to which Sellers or
12 the Company, or any of them, is or is to become a party, (ii) a breach or nonfulfillment of any
13 covenant or agreement made by Sellers or the Company in or pursuant to this Agreement or in
14 any Other Agreement to which Sellers or the Company, or any of them, is or is to become a
15 party, (iii) any and all liabilities of the Company, whether due or to become due, existing on the
16 Closing Date or arising out of any transaction entered into prior to the Closing Date, except for
17 liabilities fully reserved on the Final Closing Balance Sheet, (iv) noncompliance with or a
18 violation of and any Acquisition Damages with respect to Environmental Laws and/or (v) any
19 liability under any warranty or guarantee or other similar promise, or any contract or agreement,
20 given, issued, made or entered into by Company on or before Closing. The foregoing to the
21 contrary notwithstanding, the liability of Sellers hereunder shall be several and they shall
22 contribute to such indemnification *pro rata* based upon their respective equity interests in the
23 Company.
24

25 **8.03 Indemnification by Acquisition.** Acquisition shall indemnify, defend, save and
26 hold Sellers and their agents, representatives, successors and permitted assigns (collectively,
27 "Seller Indemnitees") harmless from and against any and all demands, claims, actions or causes
28 of action, assessments, losses, damages, deficiencies, liabilities, costs and expenses (including
29 reasonable legal fees, interest, penalties, and all reasonable amounts paid in investigation, defense
30 or settlement of any of the foregoing, whether or not the underlying demands, claims,
31 allegations, etc., of third parties are meritorious; collectively, "Seller Damages") asserted
32 against, imposed upon, resulting to, required to be paid by or incurred by any Seller Indemnitees,
33 directly or indirectly, in connection with, arising out of, which could result in, or which would
34 not have occurred but for, (i) a breach of any representation or warranty made by Acquisition in
35 this Agreement or in any certificate or document furnished pursuant hereto by Acquisition or any
36 Other Agreement to which Acquisition is a party and (ii) a breach or nonfulfillment of any
37 covenant or agreement made by Acquisition in or pursuant to this Agreement and in any Other
38 Agreement to which Acquisition is a party.
39

40 **8.04 Limitation of Liability.** Notwithstanding the foregoing, Sellers' obligations to
41 indemnify Acquisition Indemnitees against any Acquisition Damages shall be subject to all of the
42 following limitations:
43

44 (a) **Threshold.** No indemnification shall be made under clause (i) of Section 8.02 until
45 the aggregate amount of Acquisition Damages thereunder exceeds US\$50,000, but if the
46 aggregate amount of Acquisition Damages thereunder exceeds US\$50,000, then indemnification
47 shall be made by Sellers thereunder to the full extent of Acquisition Damages.
48

49 (b) **Ceiling.** No indemnification shall be made under clause (i) of Section 8.02 to the
50 extent that Acquisition's, USF's or Surviving Corporation's Damages exceed US\$627,000 in the
51 aggregate (the "Ceiling Amount"). In order to secure Sellers obligations under Section 8.02,

1 USF shall be entitled to retain, and hold in escrow for the benefit of Sellers and USF for the time
2 period specified in Section 8.05, an amount of USF Shares equal to the Ceiling Amount based
3 upon the USF Share Value. In connection with the USF Shares held in escrow, Sellers shall
4 execute and deliver to USF an assignment of stock certificate (with the name of assignee left
5 blank) in the form of attached Schedule 8.04(b). In the event that the Acquisition Indemnitees
6 suffer Acquisition's Damages in excess of the aggregate amount specified in Section 8.04(a),
7 USF shall be entitled to retain that number of USF Shares held in escrow equal to the value of
8 such Acquisition's Damages and Sellers shall have no further right or claim thereto. Subject to
9 Section 8.06, with respect to indemnity claims subject to the Ceiling Amount, USF's right to
10 obtain possession of the shares held in escrow shall be its sole and exclusive remedy under this
11 Section 8.
12

13 (c) Pro Rata Contribution. Sellers shall be required to contribute to the indemnification
14 provided for herein, severally and *pro rata*, based upon their respective equity interests in the
15 Company.
16

17 8.05 Time Period. Seller shall be obligated to indemnify Acquisition Indemnitees by
18 virtue of clause (i) Section 8.01 only for those Acquisition Damages as to which Acquisition has
19 given Seller written notice thereof within 1 year after the Closing Date; provided, however, that
20 with respect to any claim for Acquisition Damages sustained by reason of a breach of any
21 representation or warranty relating to those matters governed by Sections 4.08, 4.21 and 4.22,
22 Seller's liability shall be limited to Acquisition Damages as to which such written notice shall
23 have been given within the periods of the applicable federal and state statutes of limitations
24 related to such matters; provided further, that, with respect to any claim for Acquisition Damages
25 sustained by reason of a breach of any representation and warranty governed by Sections 4.03,
26 4.04, 4.11(b) and 4.16, Seller's liability hereunder shall not be limited as to time. Twelve (12)
27 months after the Closing Date, Sellers shall be entitled to the delivery of the USF Shares retained
28 in escrow which exceed the value of any claim brought in accordance with the Notice of Claim
29 required by Section 8.07. If no Notice of Claim is received within one year after the Closing
30 Date, all USF Shares held in escrow shall be delivered to Sellers.
31

32 8.06. Fraud, Intentional Misrepresentation. The limitations set forth in Sections
33 8.04(a), (b) and (c) shall not apply to Acquisition Damages arising out of (i) fraud, (ii) the breach
34 of any representation or warranty contained herein or pursuant thereto if such representation or
35 warranty was made with actual knowledge that it contained an untrue statement of a fact or
36 omitted to state a fact necessary to make the statements of facts contained therein not misleading,
37 (iii) breach of the representations and warranties contained in Section 4.03, 4.08, 4.11, 4.15 and
38 4.22 of this Agreement.
39

40 8.07 Notice of Claims. If any Acquisition Indemnitee or Seller Indemnitee (an
41 "Indemnified Party") believes that it has suffered or incurred or will suffer or incur any
42 Acquisition Damages or Seller Damages, as the case may be ("Damages"), for which it is
43 entitled to indemnification under this Article VIII, such Indemnified Party shall so notify the
44 party or parties from whom indemnification is being claimed (the "Indemnifying Party") with
45 reasonable promptness and reasonable particularity in light of the circumstances then existing.
46 If any action at law or suit in equity is instituted by or against a third party with respect to
47 which any Indemnified Party intends to claim any Damages, such Indemnified Party shall
48 promptly notify the Indemnifying Party of such action or suit. The failure of an Indemnified
49 Party to give any notice required by this Section shall not affect any of such party's rights

1 under this Article VIII or otherwise except and to the extent that such failure is actually
2 prejudicial to the rights or obligations of the Indemnified Party.
3

4 **8.08 Third Party Claims.** The Indemnified Party shall have the right to conduct and
5 control, through counsel of its choosing, the defense of any third party claim, action or suit, and
6 the Indemnified Party may compromise or settle the same, provided that the Indemnified Party
7 shall give the Indemnifying Party advance notice of any proposed compromise or settlement.
8 The Indemnified Party shall permit the Indemnifying Party to participate in the defense of any
9 such action or suit through counsel chosen by the Indemnifying Party, provided that the fees and
10 expenses of such counsel shall be borne by the Indemnifying Party. If the Indemnified Party
11 permits the Indemnifying Party to undertake, conduct and control the conduct and settlement of
12 such action or suit, (i) the Indemnifying Party shall not thereby permit to exist any Encumbrance
13 upon any asset of the Indemnified Party; (ii) the Indemnifying Party shall not consent to any
14 settlement that does not include as an unconditional term thereof the giving of a complete release
15 from liability with respect to such action or suit to the Indemnified Party; (iii) the Indemnifying
16 Party shall permit the Indemnified Party to participate in such conduct or settlement through
17 counsel chosen by the Indemnified Party; and (iv) the Indemnifying Party shall agree promptly to
18 reimburse the Indemnified Party for the full amount of any Damages including fees and expenses
19 of counsel for the Indemnified Party incurred after giving the foregoing notice to the
20 Indemnifying Party and prior to the assumption of the conduct and control of such action or suit
21 by the Indemnifying Party.
22

23 **8.09 Good Faith Efforts to Settle Disputes.** The parties agree that, prior to
24 commencing any litigation against the other concerning any matter with respect to which such
25 party intends to claim a right of indemnification in such proceeding, the respective chief
26 executive officers (or officers holding such authority) of such parties shall meet in a timely
27 manner and attempt in good faith to negotiate a settlement of such dispute during which time such
28 officers shall disclose to the others all relevant information relating to such dispute. In the event
29 that the parties are unable to amicably resolve the matter or matters in dispute, the parties shall
30 submit all matters still in dispute to arbitration in accordance with the arbitration rules of the
31 American Arbitration Association. Sellers shall select an arbitrator and USF shall select an
32 arbitrator and the two arbitrators so selected shall select a third arbitrator. The decision of the
33 arbitrators shall be final and binding on the parties. Such matter shall be submitted to arbitration
34 within thirty (30) days from the date that either Seller or USF declares that any matter in dispute
35 cannot be amicably resolved. All costs and expenses of arbitration shall be paid equally by
36 Sellers on one hand and Surviving Corporation on the other. Any cash or other monetary award
37 shall be paid within thirty (30) days of the arbitrators final decision. Arbitration shall be held in
38 Gainesville, Florida.
39

40 **ARTICLE IX**

41 **MISCELLANEOUS**

42

43 **9.01 Costs and Expenses.** Subject to Sections 3.05(c) and 9.10, Acquisition and Sellers
44 shall each pay its respective expenses, brokers' fees and commissions, and the parties hereby
45 agree that the pre-Closing expenses of the Company incurred in connection with this Agreement
46 and the transactions contemplated hereby, including all accounting, legal and appraisal fees and
47 settlement charges incurred by the Company but not Acquisition prior to Closing shall be paid by
48 the Sellers.
49

50 **9.02 Further Assurances.** Sellers shall, at any time and from time to time on and after
51 the Closing Date, upon request by Acquisition or USF and without further consideration, take or

1 cause to be taken such actions and execute, acknowledge and deliver, or cause to be executed,
2 acknowledged and delivered, such instruments, documents, transfers, conveyances and
3 assurances as may be required or desirable for the better conveying, transferring, assigning,
4 delivering, assuring and reasonably confirming the Company Shares to Acquisition (and its
5 affiliates) or any of the assets used in the Business to the Company.
6

7
8 **9.03 Notices.** All notices and other communications given or made pursuant to this
9 Agreement shall be in writing and shall be deemed to have been duly given or made (i) the
10 second business day after the date of mailing, if delivered by registered or certified mail, postage
11 prepaid, (ii) upon delivery, if sent by hand delivery, (iii) upon delivery, if sent by prepaid
12 courier, with a record of receipt, or (iv) the next day after the date of dispatch, if sent by cable,
13 telegram, facsimile or telecopy (with a copy simultaneously sent by registered or certified mail,
14 postage prepaid, return receipt requested), to the parties at the following addresses:

15 (i) if to Acquisition, to:

16 United States Filter Corporation
17 40-004 Cook Street
18 Palm Desert, CA 92211
19 Attention: Chief Executive Officer
20 Telecopy: (619) 3419368
21

22 with a required copy to the General Counsel of Acquisition at the
23 above address and telecopy number
24

25
26 (ii) if to Sellers, to:
27 c/o Daniel Roszel
28 2120 N.W. 20th Street
29 Gainesville, FL 32605
30

31 with a required copy to:
32 Bruce Brashear
33 920 N.W. 8th Avenue
34 Gainesville, FL 32601
35 Telecopy: 352-336-0505
36

37 Notices to the Company shall be addressed in care of Sellers before Closing and in care of
38 Acquisition after Closing. Any party hereto may change the address to which notice to it, or
39 copies thereof, shall be addressed, by giving notice thereof to the other parties hereto in
40 conformity with the foregoing.
41

42 **9.04 Currency.** All currency references herein are to United States dollars.
43

44 **9.05 Offset; Assignment; Governing Law.** Acquisition and its Affiliates shall be
45 entitled to offset or recoup from any amounts due to Sellers from Acquisition hereunder or under
46 any Other Agreement against any obligation of Sellers to Acquisition or its Affiliates hereunder
47 or under any Other Agreement. This Agreement and all the rights and powers granted hereby
48 shall bind and inure to the benefit of the parties hereto and their respective permitted successors
49 and assigns. This Agreement and the rights, interests and obligations hereunder may not be
50 assigned by any party hereto without the prior written consent of the other parties hereto, except
51 that Acquisition may make such assignments to any Affiliate of Acquisition provided that

1 Acquisition remains liable hereunder. This Agreement shall be governed by and construed in
2 accordance with the laws of the State of Florida without regard to its conflict of law doctrines.
3

4 **9.06 Amendment and Waiver: Cumulative Effect.** To be effective, any amendment or
5 waiver under this Agreement must be in writing and be signed by the party against whom
6 enforcement of the same is sought. Neither the failure of any party hereto to exercise any right,
7 power or remedy provided under this Agreement or to insist upon compliance by any other party
8 with its obligations hereunder, nor any custom or practice of the parties at variance with the
9 terms hereof shall constitute a waiver by such party of its right to exercise any such right, power
10 or remedy or to demand such compliance. The rights and remedies of the parties hereto are
11 cumulative and not exclusive of the rights and remedies that they otherwise might have now or
12 hereafter, at law, in equity, by statute or otherwise.
13

14 **9.07 Entire Agreement: No Third Party Beneficiaries.** This Agreement and the
15 Schedules and Exhibits set forth all of the promises, covenants, agreements, conditions and
16 undertakings between the parties hereto with respect to the subject matter hereof, and supersede
17 all prior or contemporaneous agreements and understandings, negotiations, inducements or
18 conditions, express or implied, oral or written, including the Letter Agreement among USF,
19 Sellers and the Company dated August 12, 1996. This Agreement is not intended to confer upon
20 any Person other than the parties hereto any rights or remedies hereunder, except the provisions
21 of Sections 8.02 and 8.03 relating to Acquisition Indemnitees and Seller Indemnitees.
22

23 **9.08 Severability.** If any term or other provision of this Agreement is held by a court of
24 competent jurisdiction to be invalid, illegal or incapable of being enforced under any rule of Law
25 in any particular respect or under any particular circumstances, such term or provision shall
26 nevertheless remain in full force and effect in all other respects and under all other
27 circumstances, and all other terms, conditions and provisions of this Agreement shall
28 nevertheless remain in full force and effect so long as the economic or legal substance of the
29 transactions contemplated hereby is not affected in any manner materially adverse to any party.
30 Upon such determination that any term or other provision is invalid, illegal or incapable of being
31 enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect
32 the original intent of the parties as closely as possible in an acceptable manner to the end that the
33 transactions contemplated hereby are fulfilled to the fullest extent possible.
34

35 **9.09 Counterparts.** This Agreement may be executed in two or more counterparts, each
36 of which shall be deemed to be an original but all of which together shall be deemed to be one
37 and the same instrument.
38

39 **9.10 Attorneys' Fees.** If either party commences or is made a party to an action or
40 proceeding to enforce or interpret this Agreement, the prevailing party in such action or
41 proceeding (specifically including arbitration proceedings) shall be entitled to recover from the
42 other party all attorneys' fees, costs and expenses incurred in connection with such action or
43 proceeding or any appeal or enforcement of any judgment obtained in any such action or
44 proceeding.

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
2 day and year first above written.
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SELLERS:

Julie K. Jasper

Andrew E. Loring
Andrew E. Loring

Diane D. Loring
Diane D. Loring

Rhonda S. Mowry
Rhonda S. Mowry

Pamela R. Robinson
Pamela R. Robinson

Daniel C. Roszel
Daniel C. Roszel

Norris O. Roszel
Norris O. Roszel

Stephan P. Roszel
Stephanie

Suz H. Roszel
Suz H. Roszel

Kathy M. Sutton

JAN-06-97 12:18 From:US FILTER

US FILTER 12:18 PM JAN 06 1997

JAN 06 1997 03:02 PM
1-800-7-2070


Joseph R. Weeks


Theodore Lopez

UNITED STATES FILTER CORPORATION

By: 

Title: Vice Pres

Acquisition: U.S. Filter / Gb. Acquisition Corp

By: 

Title: Vice Pres

GEOPURE SYSTEMS AND SERVICES, INC.

By: _____

Title: _____

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
2 day and year first above written.
3

4 SELLERS:
5

6
7 Julie K. Jasper
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9
10 Andrew E. Lorincz
11

12
13 Diane D. Lorincz
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16 Rhonda S. Mowry
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19 Pamela R. Robinson
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22 Daniel C. Roszel
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25 Norris O. Roszel
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28 Stephen P. Roszel
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31 Sue H. Roszel
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33
34 Kathy M. Summ
35

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
2 day and year first above written.
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4

5 SELLERS:
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7 Julie K. Jasper
8 Julie K. Jasper
9

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11 Andrew E. Lorincz
12 Andrew E. Lorincz
13

14
15 Diane D. Lorincz
16 Diane D. Lorincz
17

18
19 Rhonda S. Mowry
20 Rhonda S. Mowry
21

22
23 Pamela R. Robinson
24 Pamela R. Robinson
25

26
27 Daniel C. Roszel
28 Daniel C. Roszel
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31 Norris O. Roszel
32 Norris O. Roszel
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35 Stephen P. Roszel
36 Stephen P. Roszel
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39 Sue H. Roszel
40 Sue H. Roszel
41

42
43 Kathy M. Sutton
44 Kathy M. Sutton
45

46 [Signature]

11-27-1996 2:47PM FROM BRUCE BRASHEAR ATTY 352 296 0505

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day
2 and year first above written.
3

4 SELLERS:
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7 Julie K. Jasper
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11 Theodore Lopez
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15 Andrew E. Lwinicz
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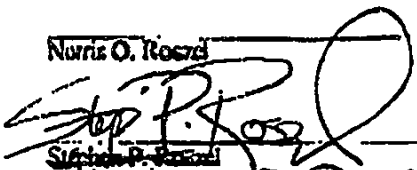
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40 Stephanie P. Roszel
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43 Sue H. Roszel
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47 Kathy M. Sutton
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51 Jennifer R. Weeks
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53

AMENDMENT TO AGREEMENT AND PLAN OF MERGER

This amendment is entered into as of _____ by and between Julie K. Jasper, Gene W. Jasper, Andrew E. Lorincz, Diane D. Lorincz, Rhonda S. Mowry, Pamela R. Robinson, "Daniel C. Roszel, Norris W. Roszel, Stephanie P. Roszel, Sue H. Roszel, Kathy M. Sutton, Jennifer R. Weeks, Theodore Loper ("Sellers"), United States Filter Corporation ("USF") and U.S. Filter/GP Acquisition Corporation (USFGP") and Geopure Systems and Services, Inc. ("Company").

1. Underlying Facts/Recitals. The parties entered into that certain agreement and plan of merger dated January 6, 1997 (the "Agreement"). The parties now desire to amend the Agreement in accordance with the terms set forth herein.

2. Amendment. In consideration of USFGP's agreement to proceed with the transaction which is the subject of the Agreement, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree to amend the Agreement as follows:

2.1 The following is hereby added as Section 4.21(h) to the Agreement:

Prior to Closing, the Continental Water Systems Inc. Profit Sharing Plan "Plan") sponsor has taken all requisite actions to terminate the Plan and filed a request with the IRS on the 5310 and related forms seeking a determination letter to the effect that the termination of the Plan does not adversely affect its qualification.

2.2 The following is hereby added as Section 6.06 to the Agreement:

After Closing, the Plan sponsor will continue to take all requisite action to terminate the Plan and obtain a determination letter to the effect that the termination of the Plan does not adversely affect its qualification. This section shall survive Closing in perpetuity.

2.3 The following is hereby added at the end of the first sentence of Section 8.02 of the Agreement:

(vi) any liabilities incurred by Company, USF or USFGP by reason of the lack of qualification of the Plan or any partial termination during the Plan year ending April 30, 1996, and/or (vii) any of the matters described on Schedule 4.12.

2.4 The following is hereby added at the end of Section 8.06: or under Section 8.02 (vi).

2.5 The term "wholly-owned" is hereby deleted from the first sentence of the Agreement.

3. No Other Modifications. Except as set forth herein, the Agreement shall remain unmodified and in full force and effect.

4. Counterparts. This amendment may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SELLERS:

Julie K. Jasper

Andrew E. Lorincz

Diane D. Lorincz

Rhonda S. Mowry

Pamela R. Robinson

Daniel C. Roszel

Norris O. Roszel

Stephanie P. Roszel

Sue H. Roszel

Kathy M. Sutton

Jennifer R. Weeks

Theodore Loper

Gene Jasper

UNITED STATES FILTER CORPORATION

By: _____
Title: _____

U.S. Filter/GP Acquisition Corporation

By: _____
Title: _____

GEOPURE SYSTEMS AND SERVICES, INC.

By: _____
Title: _____

SECOND AMENDMENT TO AGREEMENT AND PLAN OF MERGER

WHEREAS, the undersigned desire to amend the Agreement and Plan of Merger dated as of January 6, 1997, as amended as of January 17, 1997 (the "Agreement") only insofar as to conform the form thereof to the requirements of the Department of State of the State of Florida in connection with the filing of the Articles of Incorporation of the Surviving Corporation;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree to replace Sections 2.04 and 2.06 of the Agreement with the following:

2.04. Certificate of Incorporation. The Articles of Incorporation of the Surviving Corporation shall be amended and are attached hereto as Exhibit 2.04.

2.06. Directors and Officers. The names and addresses of the directors and officers of the Surviving Corporation are attached hereto as Exhibit 2.06.

Capitalized terms used herein and not defined herein have the meanings given them in the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of January 17, 1997.

UNITED STATES FILTER
CORPORATION

By: 

Title: By Power of Attorney from
Darman C. George

GEOPURE SYSTEMS & SERVICES, INC.

By: 

Title: Vice Pres

Exhibit 2.04
Articles of Incorporation

ARTICLES OF INCORPORATION
OF
GEOPURE SYSTEMS & SERVICES, INC.

The undersigned, acting as incorporator of Geopure Systems & Services, Inc., under the Florida Business Corporation Act, adopts the following Articles of Incorporation:

ARTICLE I
NAME

The name of the corporation (the "Corporation") is Geopure Systems & Services, Inc.

ARTICLE II
ADDRESS

The street address of this Corporation shall be at 2300 N.W. 71st Place, Gainesville, Florida 32606.

ARTICLE III
DURATION

The duration of the Corporation shall be perpetual.

ARTICLE IV
PURPOSE

The purpose of the Corporation shall be to engage in any activities or business permitted under the laws of the United States and the State of Florida.

ARTICLE V
CAPITAL STOCK

The maximum number of shares of stock which this Corporation is authorized to issue is 1 share of Common Stock having a par value of \$10.00 per share.

ARTICLE VI
REGISTERED OFFICE AND AGENT

The street address of the Corporation's registered office shall be 1201 Hays Street, Tallahassee, Florida 32301 and the registered agent for the Corporation at that address shall be Corporation Service Company.

ARTICLE VII
INCORPORATOR

The name and street address of the incorporator to these Articles of Incorporation are:

Name

Address

Amy G. Gossin

c/o United States Filter Corporation
40-004 Cook Street
Palm Desert, CA 92211

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this ____ day of January, 1997.

Amy G. Gossin,
Incorporator

ACCEPTANCE OF REGISTERED AGENT DESIGNATED
IN ARTICLES OF INCORPORATION

Corporation Service Company, a Delaware corporation authorized to transact business in this State, having a business office identical with the registered office of the corporation named above, and having been designated as the Registered Agent in the above and foregoing Articles, is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

CORPORATION SERVICE COMPANY

By: Karen B. Rozar
Its Agent, Karen B. Rozar

Exhibit 2.06
Officers and Directors

**DIRECTORS AND OFFICERS
OF
GEOPURE SYSTEMS & SERVICES, INC.**

* * * * *

<u>Name</u>	<u>Office</u>	<u>Address</u>
Nicholas C. Memmo	President and Director	40-004 Cook Street Palm Desert, CA 92211
Kevin L. Spence	Vice President and Director	40-004 Cook Street Palm Desert, CA 92211
Damian C. Georgino	Vice President, Secretary and Director	40-004 Cook Street Palm Desert, CA 92211
James W. Dierker	Treasurer	40-004 Cook Street Palm Desert, CA 92211