

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities  
Exchange Act of 1934

Date of Report (Date of earliest event reported) December 31, 2002  
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CAL DIVE INTERNATIONAL, INC.  
(Exact name of registrant as specified in its charter)

MINNESOTA  
(State or other jurisdiction of  
incorporation of organization)

95-3409686  
(I.R.S. Employer  
Identification No.)

400 N. SAM HOUSTON PARKWAY E., SUITE 400, HOUSTON, TEXAS  
(Address of Principal Executive Offices)

77060  
(Zip Code)

(281) 618-0400  
(Registrant's telephone number, including area code)

None  
(Former name, former address and former fiscal year,  
if changed since last report)

Item 5. Other Events.

Cal Dive International, Inc. ("Cal Dive") announced on January 8, 2003, that it had consummated a private placement transaction pursuant to which it issued and sold to Fletcher International, Ltd., an affiliate of Fletcher Asset Management, Inc. ("Fletcher"), 25,000 shares of a new Series A-1 Cumulative Convertible Preferred Stock ("Series A-1 Preferred Stock") at \$1,000 per share. The aggregate purchase price for the Series A-1 Preferred Stock was \$25 million. Cal Dive also granted Fletcher the right, commencing on July 1, 2003, and ending on July 1, 2005, to purchase up to 30,000 shares of one or more additional series of Series A Preferred Stock, with, generally, a minimum conversion price of \$30.00 per share, having similar terms and conditions as the Series A-1 Preferred Stock. Cal Dive intends to use the proceeds of the foregoing financing for reduction of amounts outstanding under its revolving credit facilities.

The Series A-1 Preferred Stock issued in the financing may be converted into Cal Dive common stock ("Common Stock") at the holders' option at an initial conversion price of \$30 (the "Conversion Price"), an aggregate of 833,333 shares of Common Stock. The Conversion Price represents approximately a 28% premium to the volume weighted average price of Common Stock on December 31, 2002. Cal Dive has agreed to register for resale the shares of Common Stock issuable under the purchase agreement, attached hereto as Exhibit 10.1 (the "Agreement"). If, during the term of the Agreement, the Daily Market Price, as defined in the Certificate of Rights and Preferences of Series A-1 Cumulative Convertible Preferred Stock, attached hereto as Exhibit 3.1 (the "Certificate") of the Common Stock is less than \$7.3461 (or such adjusted amount as provided for in the Agreement), upon the occurrence of certain events, the Conversion Price could be reduced to \$7.3461 (or such adjusted amount as provided for in the Agreement). The maximum number of shares of Cal Dive Common Stock issuable upon conversion of the Series A-1 Preferred Stock and any subsequent series of Series A Preferred Stock is 7,486,907 shares.

Commencing on December 31, 2004, or earlier upon the occurrence of certain events, the holders of the Series A-1 Preferred Stock have the right to cause Cal Dive to redeem all or a portion of their shares of Series A-1 Preferred Stock for shares of registered Common Stock or, at Cal Dive's election, for cash. The number of shares of Common Stock to be issued by Cal Dive shall be determined by dividing the stated value of the shares of Series A-1 Preferred Stock being redeemed by the Prevailing Market Price (as defined in the Certificate) at the time of such redemption. If Cal Dive elects to redeem the shares of Series A-1 Preferred Stock for cash it will pay the holders the Redemption Cash Amount (as defined in the Certificate).

The Series A-1 Preferred Stock will bear a dividend at a minimum rate of 4% per year, which may be paid, at Cal Dive's election in cash or shares of registered Common Stock. The Series A-1 Preferred Stock will not have voting rights on ordinary corporate matters, except as required by Minnesota law. The Series A-1 Preferred Stock will only have the right to approve specified corporate actions which affect the Preferred Stock.

During the term of the Agreement, neither Fletcher, nor any of its affiliates, shall engage in "short sales" of Cal Dive Common Stock; provided, however, that Fletcher or any of its affiliates are not prohibited from engaging in any transaction in any stock index, portfolio or derivative of which Cal Dive Common Stock is a component.

The sale of the Series A-1 Preferred Stock was made in reliance on the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended. The sale was made without general solicitation or advertising. Fletcher is a sophisticated investor with access to all relevant information necessary to evaluate an investment in the securities, and Fletcher represented to Cal Dive that the securities were being acquired for investment purposes.

The foregoing description of the transaction is only a summary and is qualified in its entirety by reference to the attached transaction documents in Item 7. Exhibits.

Item 7. Financial Statements, Pro Forma Financial Statements and Exhibits.

Number	Description
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3.1	Certificate of Rights and Preferences of Series A-1 Cumulative Convertible Preferred Stock of Cal Dive International, Inc. as filed with the Secretary of State of the State of Minnesota
10.1	First Amended and Restated Agreement, dated as of January 17, 2003, but effective as of December 31, 2002, between Cal Dive International, Inc. and Fletcher International, Ltd.

CAL DIVE INTERNATIONAL, INC.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: January 22, 2003

CAL DIVE INTERNATIONAL, INC.

By: /s/ S. JAMES NELSON

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S. James Nelson  
Vice Chairman

By: /s/ A. WADE PURSELL

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A. Wade Pursell  
Senior Vice President and  
Chief Financial Officer

INDEX TO EXHIBITS

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CERTIFICATE OF RIGHTS AND PREFERENCES  
OF  
SERIES A-1 CUMULATIVE CONVERTIBLE PREFERRED STOCK  
OF  
CAL DIVE INTERNATIONAL, INC.

Pursuant to Section of the 302A.401 of the Minnesota Business Corporation Act and Article V of the 1997 Amended and Restated Articles of Incorporation of Cal Dive International, Inc., CAL DIVE INTERNATIONAL, INC., a corporation organized and existing under the laws of the State of Minnesota, hereby certifies that the following resolution was duly adopted by the Board of Directors of the Company effective as of December 31, 2002 pursuant to authority conferred upon the Board of Directors by the Amended and Restated Articles of Incorporation of the Company, which authorizes the issuance of up to Five Million (5,000,000) shares of preferred stock, par value \$0.01 per share.

RESOLVED, that pursuant to authority expressly granted to and vested in the Board of Directors of the Company and pursuant to the provisions of the Amended and Restated Articles of Incorporation, the Board of Directors hereby creates a series of preferred stock, herein designated and authorized as the Series A-1 Cumulative Convertible Preferred Stock, par value \$0.01 per share, which shall consist of Twenty-Five Thousand (25,000) of the Five Million (5,000,000) shares of preferred stock which the Company now has authority to issue, and the Board of Directors hereby fixes the powers, designations and preferences and the relative, participating, optional and other special rights of the shares of such series, and the qualifications, limitations and restrictions thereof as follows:

1. Number. The number of shares constituting the Series A-1 Cumulative Convertible Preferred Stock shall be

Twenty-Five Thousand (25,000).

2. Definitions. Unless the context otherwise requires, when used herein the following terms shall have the meaning indicated.

"Acquiring Person" has the meaning set forth in the Main Agreement.

"Acquisition Price" means (i) the Daily Market Price of the Common Stock on the date immediately preceding the date on which a Change of Control is consummated, or (ii) if a purchase, tender or exchange offer is made by the Acquiring Person (or by any of its affiliates) to the holders of the Common Stock and such offer is accepted by the holders of more than fifty percent (50%) of the outstanding shares of Common Stock, the greater of (x) the price determined in accordance with the provisions of the foregoing clause (i) of this sentence and (y) the Daily Market Price on the date immediately preceding (A) in the case of a purchase, the date of acceptance of such offer by the holders of more than fifty percent (50%) of the outstanding shares of Common Stock and (B) in the case of a tender or exchange offer, the date on which more than fifty percent (50%) of the outstanding shares of Common Stock shall have been accepted for payment pursuant to the terms of such tender or exchange offer.

"Articles" means the Amended and Restated Articles of Incorporation of the Company, as amended.

"Board" means the Board of Directors of the Company.

"Business Day" means any day on which the Common Stock may be traded on the Nasdaq, or if not admitted for trading on the Nasdaq, on any day other than a Saturday, Sunday or holiday on which banks in New York City are required or permitted to be closed.

"Capital Stock" means (i) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated) of capital or capital stock of such Person and (ii) with respect to any Person that is not a corporation, any and all partnership, limited partnership, limited liability company or other equity interests of such Person.

"Certificate of Rights and Preferences" means this Certificate of Rights and Preferences of the Series A-1 Preferred Stock.

"Change of Control" shall have the meaning set forth in the Main Agreement.

"Common Stock" means the Company's common stock, no par value, and any Capital Stock for or into which such Common Stock hereafter is exchanged, converted, reclassified or recapitalized by the Company or pursuant to a Change of Control to which the Company is a party (or, at the election of the Holder, the capital stock of any Acquiring Person from and after the consummation of a Change of Control).

"Common Stock Equivalents" means (without duplication with any other Common Stock or common stock, as the case may be, or Common Stock Equivalents) rights, warrants, options, convertible securities or exchangeable securities, exercisable for or convertible or exchangeable into, directly or indirectly, Common Stock, or common stock, as the case may be, whether at the time of issuance or upon the passage of time or the occurrence of some future event.

"Company" means Cal Dive International, Inc., a Minnesota corporation.

"Conversion Cash Amount" is defined in Section 6(A)(ii).

"Conversion Closing Date" is defined in Section 6(A)(i).

"Conversion Notice" is defined in Section 6(A)(i).

"Conversion Price" means thirty dollars (\$30), subject to adjustment for (i) stock splits, recombinations, stock dividends and the like, (ii) pursuant to Section 7, in the case of any Restatement, and (iii) as a result of delivery of a Price Adjustment Notice (as defined in the Main Agreement) as set forth in the Main Agreement; provided, that, on or after the consummation of any Change of Control, the Conversion Price shall equal the product of (x) the Conversion Price in effect immediately before such Change of Control multiplied by (y) the quotient of (A) the Prevailing Market Price of the Acquiring Person as of the date of such consummation divided by (B) the Acquisition Price.

"Conversion Stock Amount" is defined in Section 6(A)(iii).

"Daily Market Price" means, on any date, the amount per share of the Common Stock (or, for purposes of determining the Daily Market Price of the common stock of an Acquiring Person or its Parent under Section 6(F), the common stock of such Acquiring Person or such Parent), equal to (i) the daily volume-weighted average price on the Nasdaq or, if no sale takes place on such date, the average of the closing bid and asked prices on the Nasdaq thereof on such date, in each case as reported by Bloomberg, L.P. (or by such other Person as the Holder and the Company may agree), or (ii) if such Common Stock or common stock of an Acquiring Person or its Parent is not then listed or admitted to trading on the Nasdaq, the higher of (x) the book value per share thereof as determined by any firm of independent public accountants of recognized standing selected by the Board as of the last calendar day of any month ending within sixty (60) calendar days preceding the date as of which the determination is to be made or (y) the fair value per share thereof determined in good faith by an independent, nationally recognized appraisal firm selected by a Majority of the Series A-1 Preferred Stock and reasonably acceptable to the Company (whose fees and expenses shall be borne by Company), subject to adjustment for stock splits, recombinations, stock dividends and the like.

"Dividend Payment Date" is defined in Section 3(A).

"Dividend Period" is defined in Section 3(A).

"Dividend Rate" means a rate equal to the Stated Value multiplied by the greater of (i) four percent (4%) per annum and (ii) the sum of the 3 month London Interbank Offer Rate (LIBOR) on the immediately preceding November 15 (or if November 15 is not a Business Day, then the first Business Day after November 15) plus one and one-half percent (1 1/2%) per annum subject to Sections 3(E) and 3(F).

"Effective Election Notice" means an Election Notice following the 30th Business Day after its delivery to a Holder, which shall, after expiration of such thirty (30) Business Day period, supersede any prior Effective Election Notice.

"Election Notice" means the delivery by the Company to a Holder of a notice, substantially in the form attached as Annex H to the Main Agreement, signifying its election to deliver cash or shares of Common Stock in the event of a dividend, conversion or redemption, as the case may be.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fletcher" means Fletcher International, Ltd. a company organized under the laws of Bermuda, together with its successors.

"Holder" shall mean a holder of Series A-1 Preferred Stock.

"Issue Date" means with respect to any shares of Series A-1 Preferred Stock the original date of issuance of such shares of Series A-1 Preferred Stock.



"Junior Securities" means Capital Stock that, with respect to dividends and distributions upon Liquidation, ranks junior to the Series A Preferred Shares (as defined in the Main Agreement), including but not limited to Common Stock and any other class or series of Capital Stock issued by the Company or any Subsidiary of the Company on or after the date of the Main Agreement, but excluding any Parity Securities and Senior Securities issued (i) to Fletcher or its authorized assignees under the Main Agreement, (ii) with the approval of the Holders of a Majority of the Series A-1 Preferred Stock or (iii) upon the conversion, redemption or exercise of securities described in clause (i) or (ii) in accordance with the terms thereof.

"Liquidation" means the voluntary or involuntary liquidation, dissolution or winding up of the Company; provided, however, that a consolidation, merger or share exchange shall not be deemed a Liquidation, nor shall a sale, assignment, conveyance, transfer, lease or other disposition by the Company of all or substantially all of its assets, which does not involve a distribution by the Company of cash or other property to the holders of Common Stock, be deemed to be a Liquidation.

"Liquidation Preference" is defined in Section 4.

"Main Agreement" means the Agreement dated as of December 31, 2002, between the Company and Fletcher pursuant to which twenty-five thousand (25,000) shares of Series A-1 Preferred Stock are to be issued by the Company, including all schedules and exhibits thereto.

"Nasdaq" shall have the meaning set forth in the Main Agreement.

"Majority of the Series A-1 Preferred Stock" means more than fifty percent (50%) of the then outstanding shares of Series A-1 Preferred Stock.

"Nasdaq NMS" shall have the meaning set forth in the Main Agreement.

"Other Securities" means any stock (other than Common Stock) and other securities of the Company or any other Person which the Holders of the Series A-1 Preferred Stock at any time shall be entitled to receive, or shall have received, upon conversion or redemption of the Series A-1 Preferred Stock in lieu of or in addition to Common Stock, or which at any time shall be issuable or shall have been issued in exchange for or in replacement of Common Stock or Other Securities.

"Parent" means, as to any Acquiring Person, any Person that (i) controls the Acquiring Person directly or indirectly through one or more intermediaries, (ii) is required to include the Acquiring Person in the consolidated financial statements contained in such Parent's Annual Report on Form 10-K (if the Parent is required to file such a report) or would be required to so include the Acquiring Person in such Parent's consolidated financial statements if they were prepared in accordance with U.S. GAAP and (iii) is not itself included in the consolidated financial statements of any other Person (other than its consolidated subsidiaries).

"Parity Securities" means any class or series of Capital Stock that, with respect to dividends or distributions upon Liquidation, is pari passu with the Series A-1 Preferred Stock and shall include, without limitation, all series A Preferred Shares issued pursuant to the Main Agreement.

"Person" means an individual or a corporation, partnership, trust, incorporated or unincorporated association, limited liability company, joint venture, joint stock company, government (or an agency or political subdivision thereof) or other entity of any kind.

"Preferred Stock" means the Company's preferred stock authorized pursuant to the provisions of the Articles.

"Prevailing Market Price" means, with respect to any reference date, the average of the Daily Market Prices of the Common Stock (or, for purposes of determining the Prevailing Market Price of the common stock of an Acquiring Person or its Parent under Section 6(F), the common stock of such Acquiring Person or such Parent) for the forty (40) Business Days ending on and including the third (3rd) Business Day before such reference date, but not greater than the average of the Daily Market Prices of the Common Stock for the first three (3) or the last three (3) Business Days of such forty (40) Business Day period.

"Qualified Public Company" means a corporation meeting all of the following criteria: (i) the common stock of the corporation is registered under Section 12 of the Securities Exchange Act of 1934, as amended, (ii) the aggregate market value of the primary publicly traded class of common equity held by non-affiliates of such corporation as reported by Bloomberg L.P. on the reference date exceeds five hundred thirty-seven million, seventy thousand dollars (\$537,070,000), (iii) the average weekly reported volume of trading in such common stock on all national securities exchanges and/or reported through the Nasdaq NMS as reported by Bloomberg L.P. during the four (4) calendar weeks preceding the reference date exceeds twenty-two million, five hundred sixty thousand dollars (\$22,560,000).

"Redemption Cash Amount" is defined in Section 6(B) (ii).

"Redemption Closing Date" is defined in Section 6(B) (i).

"Redemption Notice" is defined in Section 6(B) (i).

"Redemption Stock Amount" is defined in Section 6(B) (iii).

"Registered Common Stock" means Common Stock the resale of which has been registered under the Securities Act and is freely tradable upon delivery.

"Restatement Adjustment Notice" is defined in Section 7.

"Restatement" means that the Company restates or announces its intention to restate any portion of its financial statements as included (i) in a Form 10-K or Form 10-Q filed with the SEC, (ii) in a Form 8-K or in any other filing made with the SEC, or (iii) in a press release or (iv) by any other method, except as is required as a result of a change occurring after the date of the Main Agreement in (x) applicable law or (y) generally accepted accounting principles promulgated by the Financial Accounting Standards Board or the SEC, which change is implemented by the Company in the manner and at the time prescribed by such law or such generally accepted accounting principle.

"Restatement Date" means, at the option of and pursuant to the determination of a Majority of the Series A-1 Preferred Stock, any date on which a Restatement occurs (including, with respect to any Restatement, the date of an announcement by the Company of its intention to restate any portion of its financial statements or the date on which is filed a Form 10-K, Form 10-Q or Form 8-K or issuance of a press release in respect of the matters described in such announcement or the date on which such Restatement is filed with the SEC).

"Securities Act" means the Securities Act of 1933, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

"Senior Securities" means any class or series of Capital Stock that, with respect to dividends or distributions upon Liquidation, ranks senior to the Series A-1 Preferred Stock.

"Series A Preferred Shares" has the meaning ascribed to such term in the Main Agreement.

"Series A-1 Preferred Stock" means the Series A-1 Cumulative Convertible Preferred Stock of the Company or successor as contemplated by Section 6(F).

"Stated Value" is an amount equal to one thousand dollars (\$1,000) per share of Series A-1 Preferred Stock plus (x) any accrued and unpaid dividends (as of the date of determination, which for purposes of Sections 6(A) and 6(B) shall be the Conversion Closing Date and Redemption Closing Date, respectively), whether or not declared and whether or not earnings are available in respect of such dividends and (y) any dividends declared on the Common Stock in an amount equal to the product of (A) the per-share dividend on Common Stock multiplied by (B) the number of shares of Common Stock issuable upon redemption or conversion (whichever is greater) of a share of Series A-1 Preferred Stock on the date such dividend is declared on the Common Stock. In the event the Company shall declare a distribution on the Common Stock payable in securities or property other than cash, the value of such securities or property will be the fair market value. Any securities shall be valued as follows: (i) if traded on a national securities exchange or through the Nasdaq NMS or Nasdaq SmallCap Market, the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the thirty (30) Business Day period ending three (3) calendar days prior to such declaration; (ii) if actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty (30) Business Day period ending three (3) calendar days prior to such declaration; and (iii) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board.

"Subsidiary" of a Person means (i) a corporation, a majority of whose stock with voting power, under ordinary circumstances, to elect directors is at the time of determination, directly or indirectly, owned by such Person or by one or more Subsidiaries of such Person, or (ii) any other entity (other than a corporation) in which such Person or one or more Subsidiaries of such Person, directly or indirectly, at the date of determination thereof has a least a majority ownership interest.

The foregoing definitions will be equally applicable to both the singular and plural forms of the defined terms.

### 3. Dividends and Distributions.

(A) Holders shall be entitled to receive out of the assets of the Company legally available for that purpose, dividends at the Dividend Rate to be paid in accordance with the terms of this Section 3. Such dividends shall be fully cumulative from the Issue Date, shall accumulate regardless of whether the Company earns a profit and shall be payable in arrears, when and as declared by the Board, on March 31, June 30, September 30 and December 31 of each year (each such date being herein referred to as a "Dividend Payment Date"), commencing on March 31, 2003. The period from the Issue Date to March 31, 2003, and each quarterly period between consecutive Dividend Payment Dates shall hereinafter be referred to as a "Dividend Period." The dividend for any Dividend Period for any share of Series A-1 Preferred Stock that is not outstanding on every calendar day of the Dividend Period shall be prorated based on the number of calendar days such share was outstanding during the period. Each such dividend shall be paid to the Holders of record of the Series A-1 Preferred Stock as their names appear on the share register of the Company on the Dividend Payment Date. Dividends on account of arrears for any past Dividend Periods may be declared and paid at any time, without reference to any Dividend Payment Date (including, without limitation, for purposes of computing the Stated Value of any shares of Series A-1 Preferred Stock in connection with the conversion or redemption thereof or any Liquidation of the Company), to Holders of record on a date designated by the Board, not exceeding thirty (30) calendar days preceding the payment date thereof, as may be fixed by the Board. For purposes of determining the amount of dividends accrued as of the first Dividend Payment Date and as of any date that is not a Dividend Payment Date, such amount shall be calculated on the basis of the Dividend Rate for the actual number of calendar days elapsed from and including the Issue Date (in case of the first Dividend Payment Date and any date prior to the first Dividend Payment Date) or the last preceding Dividend Payment Date (in case of any other date) to the date as of which such determination is to be made, based on a three hundred sixty (360) day year.

(B) Dividends payable on the Series A-1 Preferred Stock may be paid, at the option of the Company, either in cash or by the issuance of Registered Common Stock, provided, however, that the Company's right to pay dividends on any Dividend Payment Date by the issuance of Registered Common Stock shall continue only so long as (i) there shall not exist an Issuance Blockage (as defined in the Main Agreement) and the issuance of Common Stock shall not cause the Company to exceed the Maximum Number (as defined in the Main Agreement) and (ii) the Company is a Qualified Public Company on the Dividend Payment Date. Subject to the foregoing, payments on any Dividend Payment Date shall be made in Registered Common Stock unless an Effective Election Notice provides that such payments shall be made in cash. Notwithstanding the foregoing, with respect to the first Dividend Payment Date on the Series A-1 Preferred Stock, the Company may notify the Holders in writing of its irrevocable intention to pay cash on or before March 25, 2003. The number of shares of Registered Common Stock to be issued shall be determined by dividing the cash amount of the dividend

otherwise payable by the Prevailing Market Price calculated as of such Dividend Payment Date; provided, however, if the Company shall combine, subdivide or reclassify its Common Stock, or shall declare any dividend payable in shares of its Common Stock, or shall take any other action of a similar nature affecting such shares, the number of shares of Registered Common Stock to be issued shall be adjusted to the extent appropriate to reflect such event, including appropriate adjustments to account for any such event that occurs during the period used for calculating such Prevailing Market Price. The number of shares of Registered Common Stock to be issued as a dividend shall be rounded up to the nearest whole share after aggregating all shares of Series A-1 Preferred Stock owned by a Holder.

(C) If, on any Dividend Payment Date, the Company fails to pay dividends, then until the dividends that were scheduled to be paid on such date are paid, such dividends shall cumulate and shall accrue additional dividends to and including the date of payment thereof at the Dividend Rate then in effect, compounded quarterly on each subsequent Dividend Payment Date. Unpaid dividends for any period less than a full Dividend Period shall cumulate on a day to day basis and shall be computed on the basis of a three hundred sixty (360) day year.

(D) So long as any shares of the Series A-1 Preferred Stock shall be outstanding, (i) the Company shall not and shall not allow its Subsidiaries to declare or pay any dividend whatsoever, whether in cash, property or otherwise, set aside any cash or property for the payment of dividends, or make any other distribution on any Junior Securities, (ii) the Company shall not and shall not allow its Subsidiaries to declare or pay any dividend whatsoever, whether in cash, property or otherwise, set aside any cash or property for the payment of dividends, or make any other distribution on any Parity Securities, except for dividends paid to the Company or any of its wholly-owned Subsidiaries and dividends paid on the Series A Preferred Shares and (iii) except as provided in those certain Earn Out Provisions attached as Exhibit G to that certain Formation and Purchase Agreement, dated December 4, 2001, made by and between Canyon Offshore, Inc. and Cal Dive International, Inc., as amended by that certain Amendment No. 1 to Formation and Purchase Agreement, dated January 2, 2002, the Company shall not and shall not allow its Subsidiaries to repurchase, redeem or otherwise acquire for value or set aside any cash or property for the repurchase or redemption of any Junior Securities or Parity Securities, unless in each such case all dividends to which the Holders of the Series A-1 Preferred Stock shall have been entitled to receive for all previous Dividend Periods shall have been paid and dividends on the Series A-1 Preferred Stock for the subsequent four Dividend Periods shall have been designated and set aside in cash.

(E) Whenever, at any time or times, dividends payable on any Series A Preferred Shares (as defined in the Main Agreement) shall be in arrears in an aggregate amount greater than two (2) quarterly dividends, the Dividend Rate shall mean a rate equal to the greater of (i) fifteen percent (15%) per annum times the Stated Value and (ii) the Dividend Rate otherwise then in effect until such date that all accrued and unpaid dividends shall have been declared and paid in full.

(F) Whenever, at any time or times, the Company shall fail to redeem any Series A Preferred Shares (as defined in the Main Agreement) for cash by the date it is obligated to do so under Section 6(B) hereof or under Section 6(B) of any Subsequent Certificates of Rights and Preferences (as defined in the Main Agreement) and such failure to pay cash is ongoing, then the Dividend Rate shall mean a rate equal to the greater of (i) fifteen percent (15%) per annum times the Stated Value and (ii) the Dividend Rate otherwise then in effect until such date as the circumstances described in clause (i) and (ii) no longer exist.

(G) Subject to the immediately following sentence, the Company shall be entitled to deduct and withhold from any dividend on the Series A-1 Preferred Stock such amounts as the Company is required to deduct and withhold with respect to such dividend under the Internal Revenue Code of 1986, as amended, or any other provision of state, local or foreign tax law. In the event the Company elects, pursuant to Section 3B, to pay a dividend on the Series A-1 Preferred Stock by issuing Registered Common Stock to a Holder, (i) the Company shall deliver the number of shares of Registered Common Stock that would be delivered to a Holder pursuant to Section 3B in the absence of any requirement under applicable law to deduct and withhold any amount with respect to such dividend and (ii) on the Business Day following the Dividend Payment Date, Holder shall transfer to the Company by wire transfer an amount equal to what the Company is required under applicable law to deduct and withhold with respect to such dividend. For purposes of determining the withholding amount, the dividend value shall equal the applicable number of dividend shares multiplied by the Daily Market Price on the Dividend Payment Date.

4. Liquidation Preference. In the event of any Liquidation, after payment or provision for payment by the Company of the debts and other liabilities of the Company and the liquidation preference of any Senior Securities that rank senior to the Series A-1 Preferred Stock with respect to distributions upon Liquidation, each Holder shall be entitled to receive an amount in cash for each share of the then outstanding Series A-1 Preferred Stock held by such Holder equal to the greater of (a) the Stated Value per share to and including the date full payment is tendered to the Holders with respect to such Liquidation and (b) the amount the Holders would have received if the Holders had converted all outstanding shares of Series A-1 Preferred Stock into Common Stock in accordance with the provisions of Section 6(A) hereof or redeemed all outstanding shares of Series A-1 Preferred Stock into Common Stock under Section 6(B) hereof (whichever is greater), in each case as of the Business Day immediately preceding the date of such Liquidation (such greater amount being referred to herein as the "Liquidation Preference"), before any distribution shall be made to the holders of any Junior Securities (and any Senior Securities or Parity Securities that, with respect to distributions upon Liquidation, rank junior to the Series A-1 Preferred Stock) upon the Liquidation of the Company. In case the assets of the Company available for payment to the Holders are insufficient to pay the full Liquidation Preference on all outstanding shares of the Series A-1 Preferred Stock and all outstanding shares of Parity Securities and Senior Securities that, with respect to distributions upon Liquidation, are pari passu with the Series A-1 Preferred Stock in the amounts to which the holders of such shares are entitled, then the entire assets of the Company available for payment to the Holders and to the holders of such Parity Securities and Senior Securities shall be distributed ratably among the Holders of the Series A-1 Preferred Stock and the holders of

such Parity Securities and Senior Securities, based upon the aggregate amount due on such shares upon Liquidation. Written notice of any Liquidation of the Company, stating a payment date and the place where the distributable amounts shall be payable, shall be given by facsimile and overnight delivery not less than ten (10) calendar days prior to the payment date stated therein, to the Holders of record of the Series A-1 Preferred Stock, if any, at their respective addresses as the same shall appear on the books of the Company.

5. Voting Rights. The Holders shall have the following voting rights with respect to the Series A-1 Preferred Stock:

(A) Each share of Series A-1 Preferred Stock shall entitle the holder thereof to the voting rights specified in Section 5(B) and no other voting rights except as required by law.

(B) The consent of the Holders of at least a Majority of the Series A-1 Preferred Stock, voting separately as a single class with one vote per share, in person or by proxy, either in writing without a meeting or at an annual or a special meeting of such Holders called for the purpose, shall be necessary to:

(i) amend, alter or repeal, by way of merger or otherwise, any of the provisions of the Articles, including the Certificate of Rights and Preferences, or Bylaws of the Company so as to:

(A) change any of the rights, preferences or privileges of Holders. Without limiting the generality of the preceding sentence, such change includes any action that would:

- (1) Reduce the Dividend Rate on the Series A-1 Preferred Stock, or make such dividends non-cumulative, or defer the date from which dividends will accrue, or cancel accrued and unpaid dividends, or change the relative seniority rights of the holders of Series A-1 Preferred Stock as to the payment of dividends in relation to the holders of any other capital stock of the Company;
- (2) Reduce the amount payable to the holders of the Series A-1 Preferred Stock upon the voluntary or involuntary liquidation, dissolution, or winding up of the Company, or change the relative seniority of the liquidation preferences of the holders of the Series A-1 Preferred Stock to the rights upon liquidation of the holders of any other capital stock of the Company;
- (3) Make the Series A-1 Preferred Stock redeemable at the option of the Company.

(B) authorize, create or issue any shares of Parity Securities or Senior Securities (or amend the provisions of any

existing class of Capital Stock to make such class of Capital Stock a class of Parity Securities or Senior Securities).

(ii) permit any Subsidiary of the Company to issue or sell, or obligate itself to issue or sell, except to the Company or any wholly owned Subsidiary, any security of such Subsidiaries or all or substantially all of the assets of any Subsidiary other than sales of assets on an arm's-length, fair market value basis; or

(iii) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Preferred Stock or amend any provisions of any Capital Stock so as to make such Capital Stock redeemable by the Company.

## 6. Conversion and Redemption.

### (A) Procedure for Conversion.

(i) General. Shares of Series A-1 Preferred Stock are convertible at the option of the Holder thereof at any time, from time to time, in whole or in part, as follows:

(A) The conversion of shares of Series A-1 Preferred Stock may be effected by delivering a duly executed written Preferred Stock Conversion Notice, in form and substance as attached to the Main Agreement as Annex D (the "Conversion Notice"), by facsimile, mail or overnight courier delivery, to the Company's address set forth in Section 19 of the Main Agreement specifying the number of shares of Series A-1 Preferred Stock to be converted.

(B) The closing of such conversion shall take place (a) on the later of (1) on the second Business Day following and excluding the date the Conversion Notice is delivered and (2) such later date as the conditions set forth in Section 6(A)(iii) have been waived or satisfied or (b) any other date upon which the exercising Holder and the Company mutually agree (the "Conversion Closing Date").

(ii) Conversion for cash. If an Effective Election Notice provides that the Company shall convert such shares for cash, then such shares shall be converted for cash in an amount equal to the product of (x) (1) the aggregate Stated Value of such shares divided by (2) the Conversion Price multiplied by (y) the Daily Market Price of Common Stock on the Business Day preceding the date the Conversion Notice is delivered (the "Conversion Cash Amount"). If there is no Effective Election Notice that provides that the Company shall convert such shares for cash, then the redemption shall be for Common Stock, pursuant to Section 6(A)(iii). At such closing, the Holder shall surrender the certificate



representing the shares of Series A-1 Preferred Stock to be converted to the Company at the address set forth for notices to the Company in Section 19 of the Main Agreement, and the Company shall deliver to the Holder via wire transfer of immediately available U.S. funds cash equal to the aggregate Conversion Cash Amount of such shares. If the Company fails to tender cash as provided in this Section 6(B)(ii) on or before the Cash Closing Date, then the Holder may, at its sole option (and without limiting any other available remedies, including without limitation under Section 3(F) or at law or in equity) elect to (1) withdraw the Conversion Notice by written notice to the Company and, after such withdrawal, shall have no further obligations with respect to such Conversion Notice and may submit a Conversion Notice with respect to the shares referenced in the withdrawn Conversion Notice at any time or (2) receive shares of Registered Common Stock as set forth in Section 6(B)(iii), in which case the Conversion Closing Date shall be the second Business Day after and excluding the date on which the Holder notifies the Company in writing of such election.

(iii) Conversion for stock. If the conversion is not made for cash pursuant to Section 6(A)(ii) hereof, then such shares of stock shall be converted into that number of shares of Registered Common Stock (or at the sole election of the Holder, unregistered Common Stock) equal to (A) the aggregate Stated Value of such shares divided by (B) the Conversion Price (the "Conversion Stock Amount"). On the Conversion Closing Date, the Holder shall surrender the certificate representing the shares of Series A-1 Preferred Stock to be converted to the Company at the address set forth for notices to the Company in Section 19 of the Main Agreement, and the Company shall deliver to such Holder at the address specified in the Conversion Notice the Conversion Stock Amount of duly authorized, validly issued, fully paid and nonassessable shares of Registered Common Stock (or Other Securities or, with such Holder's express written consent, unregistered Common Stock). It shall be a condition of the converting Holder's obligation to close that each of the following is satisfied, unless expressly waived by such Holder in writing:

(A) (1) the representations and warranties made by the Company in the Main Agreement shall be true and correct as of the Conversion Closing Date, except those representations and warranties that address matters only as of a particular date, which shall be true and correct as of such date; (2) the Company shall have complied fully with all of the covenants and agreements in the Main Agreement; (3) all shares to be issued upon such conversion shall be registered under the Securities Act, shall be freely tradable and shall be duly listed and admitted to trading on the Nasdaq (unless, with respect to clause (3) only, the Holder expressly consents in writing to the issuance of unregistered Common Stock); and such Holder shall have received a certificate of the Chief Executive Officer and the Chief Financial Officer of the Company dated such date and to the effect of clauses (1), (2) and (3).

(B) On the Conversion Closing Date, the Company shall have delivered to the Holder (x) a Preferred Stock Conversion Delivery Notice, in form and substance as attached to the Main Agreement as Annex E and (y) the legal opinions described in Section 13(b) of the Main Agreement.

(C) As of the Conversion Closing Date, the Company shall have notified the Holder of all Restatements.

(D) The issuance of Common Stock shall not cause the Company to exceed the Maximum Number (as defined in the Main Agreement).

The Company shall use its best efforts to cause each of the foregoing conditions to be satisfied at the earliest practicable date. If such conditions are not satisfied or waived prior to the third Business Day following and excluding the date the Conversion Notice is delivered, then the Holder may, at its sole option, and at any time, withdraw the Conversion Notice by written notice to the Company regardless of whether such conditions have been satisfied or waived as of the withdrawal date and, after such withdrawal, shall have no further obligations with respect to such Conversion Notice and may submit a Conversion Notice with respect to the shares referenced in the withdrawn Conversion Notice at any time. If the Company is unable to deliver a sufficient number of shares of Registered Common Stock to satisfy its obligations on such Conversion Closing Date, it shall instead deliver cash in an amount and in the manner provided in Section 6(A)(ii).

(iv) Holder of record. Each conversion of Series A-1 Preferred Stock shall be deemed to have been effected immediately before the close of business on the Business Day on which the Conversion Notice is delivered (except, that, for purposes of calculation of the Stated Value, dividends shall accrue until and including the Conversion Closing Date), and at such time the Person or Persons in whose name or names any certificate or certificates for shares of Common Stock (or Other Securities) shall be issuable upon such conversion as provided in Section 6(A)(iii) shall be deemed to have become the holder or holders of record thereof. The foregoing notwithstanding, such conversion shall not be deemed effective if and as of the date that the Holder delivers written notice of withdrawal to the Company as set forth in Section 6(B)(iii) above.

(v) Partial conversion. If any conversion is for only part of the shares represented by the certificate surrendered, the Company shall send a new Series A-1 Preferred Stock certificate of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Series A-1 Preferred Stock which have not been converted via reputable overnight courier to such address specified by the Holder.

(B) Procedure for Redemption.

(i) General. Shares of Series A-1 Preferred Stock are redeemable at the option of the Holder thereof from time to time, in whole or in part at any time (w) on or after the second anniversary of the date of the Main Agreement, (x) if the Company fails to pay dividends on any Dividend Payment Date, on or after such date, (y) on and after the date a public announcement is made of the Company's or any other Person's intention or agreement to engage in a transaction or series of transactions that may result in a Change of Control and (z) subject to Section 6(b)(i) of the Main Agreement, on and after any date the Daily Market Price is less than the Minimum Price (as defined in the Main Agreement) as follows:

(A) A Holder of Series A-1 Preferred Stock may require the Company to redeem any or all shares of Series A-1 Preferred Stock held by such Holder by delivering an optional redemption notice to the Company substantially in the form attached as Annex F to the Main Agreement (a "Redemption Notice").

(B) The closing of such redemption shall take place (a) on the later of (1) on the second Business Day following and excluding the date the Redemption Notice is delivered and (2) such later date as the conditions set forth in Section 6(B)(iii) have been waived or satisfied or (b) any other date upon which the exercising Holder and the Company mutually agree (the "Redemption Closing Date").

(ii) Redemption for cash. If an Effective Election Notice provides that the Company shall redeem such shares for cash, then such shares shall be redeemed for cash in an amount equal to the product of (x) (1) the aggregate Stated Value of such shares divided by (2) the Prevailing Market Price as of the date the Redemption Notice is delivered multiplied by (y) the Daily Market Price of Common Stock on the Business Day preceding the date the Redemption Notice is delivered (the "Redemption Cash Amount"). If there is no Effective Election Notice that provides that the Company shall convert such shares for cash, then the redemption shall be for Common Stock, pursuant to Section 6(B)(iii). At such closing, the Holder shall surrender the certificate representing the shares of Series A-1 Preferred Stock to be redeemed to the Company at the address set forth for notices to the Company in Section 19 of the Main Agreement, and the Company shall deliver to the Holder via wire transfer of immediately available U.S. funds cash equal to the aggregate Redemption Cash Amount of such shares. If the Company fails to tender cash as provided in this Section 6(B)(ii) on or before the Cash Closing Date, then the Holder may, at its sole option (and without limiting any other available remedies, including without limitation under Section 3(F) or at law or in equity) elect to (1) withdraw the Redemption Notice by written notice to the Company and, after such withdrawal, shall have no further obligations with respect to such Redemption Notice and may submit a Redemption Notice with respect to

the shares referenced in the withdrawn Redemption Notice at any time or (2) receive shares of Registered Common Stock as set forth in Section 6(B)(iii), in which case the Redemption Closing Date shall be the second Business Day after and excluding the date on which the Holder notifies the Company in writing of such election.

(iii) Redemption for stock. If the redemption is not made for cash pursuant to Section 6(B)(ii) hereof, then such shares of stock shall be redeemed into that number of shares of Registered Common Stock (or at the sole election of the Holder, unregistered Common Stock) equal to (A) the aggregate Stated Value of such shares divided by (B) the Prevailing Market Price as of the date the Redemption Notice is delivered (the "Redemption Stock Amount"). On the Redemption Closing Date, the Holder shall surrender the certificate representing the shares of Series A-1 Preferred Stock to be redeemed to the Company at the address set forth for notices to the Company in Section 19 of the Main Agreement, and the Company shall deliver to such Holder at the address specified in the Redemption Notice the Redemption Stock Amount of duly authorized, validly issued, fully paid and nonassessable shares of Registered Common Stock (or Other Securities or, with such Holder's express written consent, unregistered Common Stock). It shall be a condition of the redeeming Holder's obligation to close that each of the following is satisfied, unless expressly waived by such Holder in writing:

(A) (1) the representations and warranties made by the Company in the Main Agreement shall be true and correct as of the Redemption Closing Date, except those representations and warranties that address matters only as of a particular date, which shall be true and correct as of such date; (2) the Company shall have complied fully with all of the covenants and agreements in the Main Agreement; (3) all shares to be issued upon such redemption shall be registered under the Securities Act, shall be freely tradable and shall be duly listed and admitted to trading on the Nasdaq (unless, with respect to clause (3) only, the Holder expressly consents in writing to the issuance of unregistered Common Stock); and such Holder shall have received a certificate of the Chief Executive Officer and the Chief Financial Officer of the Company dated such date and to the effect of clauses (1), (2) and (3).

(B) On the Redemption Closing Date, the Company shall have delivered to the Holder (x) a Preferred Stock Redemption Delivery Notice, in form and substance as attached to the Main Agreement as Annex G and (y) the legal opinions described in Section 13(b) of the Main Agreement.

(C) As of the Redemption Closing Date, the Company shall have notified the Holder of all Restatements.

(D) The issuance of Common Stock shall not cause the Company to exceed the Maximum Number (as defined in the Main Agreement).

The Company shall use its best efforts to cause each of the foregoing conditions to be satisfied at the earliest practicable date. If such conditions are not satisfied or waived prior to the third Business Day following and excluding the date the Redemption Notice is delivered, then the Holder may, at its sole option, and at any time, withdraw the Redemption Notice by written notice to the Company regardless of whether such conditions have been satisfied or waived as of the withdrawal date and, after such withdrawal, shall have no further obligations with respect to such Redemption Notice and may submit a Redemption Notice with respect to the shares referenced in the withdrawn Redemption Notice at any time. If the Company is unable to deliver a sufficient number of shares of Registered Common Stock to satisfy its obligations on such Redemption Closing Date, it shall instead deliver cash in an amount and in the manner provided in Section 6(B) (ii).

(iv) Holder of record. Each redemption of Series A-1 Preferred Stock shall be deemed to have been effected immediately before the close of business on the Business Day on which the Redemption Notice is delivered (except, that, for the purposes of calculation of the Stated Value, dividends shall accrue until and including the Redemption Closing Date), and at such time the Person or Persons in whose name or names any certificate or certificates for shares of Common Stock (or Other Securities) shall be issuable upon such redemption as provided in Section 6(B) (iii) shall be deemed to have become the holder or holders of record thereof. The foregoing notwithstanding, such redemption shall not be deemed effective if and as of the date that the Holder delivers written notice of withdrawal to the Company as set forth in Section 6(B) (iii) above.

(v) Partial redemption. If any redemption is for only part of the shares represented by the certificate surrendered, the Company shall send a new Series A-1 Preferred Stock certificate of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Series A-1 Preferred Stock which have not been redeemed via reputable overnight courier to such address specified by the Holder.

(C) The Company shall at all times reserve for issuance such number of its shares of Common Stock as shall be required under the Main Agreement.

(D) The Company will procure, at its sole expense, the listing of the Common Stock issuable upon conversion or redemption of the Series A-1 Preferred Stock and shares issuable as dividends hereunder, subject to issuance or notice of issuance, on all stock exchanges and quotation systems on which the Common Stock is then listed or quoted, no later than the date on which such Series A-1 Preferred Stock is issued to the Holder

and thereafter shall use its best efforts to prevent delisting or removal from quotation of such shares. The Company will pay any and all documentary stamp or similar issue or transfer taxes that may be payable in respect of the issuance or delivery of shares of Common Stock on conversion or redemption of shares of the Series A-1 Preferred Stock. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involving the issue and delivery of shares of Common Stock in a name other than that in which the shares of Series A-1 Preferred Stock so converted or redeemed were registered, and no such issue and delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax, or has established, to the reasonable satisfaction of the Company, that such tax has been paid.

(E) No fractional shares or scrip representing fractional shares shall be issued upon the conversion or redemption of the Series A-1 Preferred Stock. If any such conversion or redemption would otherwise require the issuance of a fractional share of Common Stock, an amount equal to such fraction multiplied by the current Daily Market Price per share of Common Stock on the date of conversion or redemption shall be paid to the Holder in cash by the Company. If more than one share of Series A-1 Preferred Stock shall be surrendered for conversion or redemption at one time by or for the same Holder, the number of full shares of Common Stock issuable upon conversion or redemption thereof shall be computed on the basis of the aggregate number of shares of Series A-1 Preferred Stock so surrendered.

(F) Change of Control. If the Company on or after the Main Agreement Date is party to any Change of Control (as defined in the Main Agreement), proper provision shall be made so that, upon the basis and the terms and in the manner provided herein, the Holder of each unconverted and unredeemed share of Series A-1 Preferred Stock, upon conversion or redemption thereof at any time after the consummation of such Change of Control, shall be entitled to receive equivalent rights as those provided in this Certificate of Rights and Preferences, including, without limitation, the voting, dividend, conversion, redemption and liquidation rights contained herein. The Company shall, prior to the consummation of any Change of Control, provide that each Person (other than the Company) that may be required to deliver any stock, securities, cash or property upon conversion of Series A-1 Preferred Stock as provided herein shall assume, by written instrument delivered to, and reasonably satisfactory to, the Holders of a Majority of the Series A-1 Preferred Stock, (A) the obligations of the Company under this Certificate of Rights and Preferences (and if the Company shall survive the consummation of such transaction, such assumption shall be in addition to, and shall not release the Company from, any continuing obligations of the Company under this Certificate of Rights and Preferences) and (B) the obligation to deliver to the Holders of Series A-1 Preferred Stock such shares of stock, securities, cash or property as, in accordance with the provisions of this Certificate of Rights and Preferences, such Holders may be entitled to receive, and such Person shall have similarly delivered to such Holders an opinion of counsel for such Person, which counsel shall be reasonably satisfactory to Holders of a Majority of the Series A-1 Preferred Stock, stating that the rights of such Holders under this Certificate of Rights and Preferences shall thereafter continue in full force and effect and the terms hereof.

7. Restatements. The Company shall deliver written notice to each Holder within three (3) Business Days after each Restatement occurs, including the documents in which the Restatement was publicly disclosed. If any Restatement occurs on any Closing Date (as defined in the Main Agreement) or during the period ending and including the sixtieth (60th) Business Day after and excluding any Closing Date, then the Holder shall have the right to deliver a notice of its election to adjust the Conversion Price (a "Restatement Adjustment Notice") to the Company. A Restatement Adjustment Notice may be delivered on any day on or after the day on which any Restatement occurs and before the sixtieth (60th) Business Day after and excluding the later of (i) the date the Company notifies the Holder of such Restatement and (ii) the filing by the Company of its restated or corrected financial statements with the SEC. Delivery of a Restatement Adjustment Notice shall cause the Conversion Price to adjust to equal one hundred twenty-five percent (125%) of the Daily Market Price calculated as of the third (3rd) Business Day preceding such delivery.

8. Status of Converted and Redeemed Shares; Limitations on Series A-1 Preferred Stock. The Company shall return to the status of unauthorized and undesignated shares of Preferred Stock each share of Series A-1 Preferred Stock which shall be converted, redeemed or for any other reason acquired by the Company, and such shares thereafter may have such characteristics and designations as the Board may determine (subject to Section 5), provided, however, no share of Series A-1 Preferred Stock which shall be converted, redeemed or otherwise acquired by the Company shall thereafter be reissued, sold or transferred by the Company as Series A-1 Preferred Stock. The Company will not issue any further shares of Series A-1 Preferred Stock.

9. Miscellaneous. Notwithstanding anything herein to the contrary, all measurements and references related to share prices and share numbers herein shall be, in each instance, appropriately adjusted for stock splits, recombinations, stock dividends and the like.

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INWITNESS WHEREOF, this Certificate of Rights and Preferences has been signed on behalf of the Company by its Senior Vice President and Chief Financial Officer and attested to by its Corporate Secretary, all as of January 7, 2003.

CAL DIVE INTERNATIONAL, INC.

/s/ A. WADE PURSELL

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Name: A. Wade Pursell  
Title: Senior Vice President and  
Chief Financial Officer

/s/ JAMES LEWIS CONNOR, III

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Name: James Lewis Connor, III  
Title: Senior Vice President, General Counsel  
and Corporate Secretary



## FIRST AMENDED AND RESTATED AGREEMENT

This First Amended and Restated Agreement (this "Agreement") dated as of January 17, 2003 is entered into by and between Cal Dive International, Inc., a corporation organized under the laws of Minnesota (together with its successors, "Cal Dive"), and Fletcher International, Ltd., a company organized under the laws of Bermuda (together with its successors, "Fletcher").

Reference is made to that certain Agreement dated as of December 31, 2002 by and between Cal Dive and Fletcher (the "Original Agreement"). The parties hereto agree that this First Amended and Restated Agreement hereby amends, restates and supersedes in its entirety the Original Agreement; provided, however, that (1) all references to the "date hereof," "date of this Agreement," "date first above written" and other, similar references contained herein or incorporated by reference into the Certificate of Rights and Preferences or any Subsequent Certificate of Rights and Preferences shall be deemed to refer to December 31, 2002; and (2) all references to the Original Agreement (except as provided in (1) above) contained in any of the Annexes to the Original Agreement shall be deemed to refer instead to this Agreement and, as so amended, those Annexes shall be deemed to be Annexes to this Agreement.

The parties hereto agree as follows:

1. Purchase and Sale. In consideration of and upon the basis of the representations, warranties and agreements and subject to the terms and conditions set forth in this Agreement:

(a) Fletcher agrees to purchase from Cal Dive, and Cal Dive agrees to sell to Fletcher on the Initial Closing Date (as defined below), in accordance with Section 2 below, twenty-five thousand (25,000) shares (the "Initial Preferred Shares") of Cal Dive's Series A-1 Cumulative Convertible Preferred Stock (the "Series A-1 Preferred Stock"), having the terms and conditions set forth in the Certificate of Rights and Preferences attached hereto as Annex A (the "Certificate of Rights and Preferences"), at a price of one thousand dollars (\$1,000) per share for an aggregate purchase price of twenty-five million dollars (\$25,000,000). Fletcher shall have the rights with respect to such Initial Preferred Shares specified in this Agreement and in the Certificate of Rights and Preferences.

(b) The closing (the "Initial Closing") of the sale of the Initial Preferred Shares occurred on January 8, 2003 (such date, the "Initial Closing Date").

(c) Cal Dive grants Fletcher rights (the "Fletcher Rights") to require Cal Dive to issue to it from time to time, in whole or in part, up to an aggregate of thirty thousand (30,000) shares of additional series of Cal Dive preferred stock (e.g., Series A-2 Cumulative Convertible Preferred Stock, Series A-3 Cumulative Convertible Preferred Stock, etc.) having, except as set forth below, the terms, conditions, rights, preferences and privileges as the Series A-1 Preferred Stock (such shares

shall collectively be referred to as the "Additional Preferred Shares" and together with the Initial Preferred Shares, the "Series A Preferred Shares") at a price of one thousand dollars (\$1,000) per share for an aggregate purchase price for all Additional Preferred Shares of thirty million dollars (\$30,000,000), and together with the Initial Preferred Shares, fifty-five million dollars (\$55,000,000) in the aggregate of Series A Preferred Shares. Fletcher shall have the rights with respect to such Additional Preferred Shares specified in this Agreement and in a certificate of rights and preferences for each such series of Additional Preferred Shares (each, a "Subsequent Certificate of Rights and Preferences" and collectively, the "Subsequent Certificates of Rights and Preferences"). Each Subsequent Certificate of Rights and Preferences shall have the same terms and conditions as the Certificate of Rights and Preferences, except that (A) the Conversion Price (as defined therein) shall equal one hundred twenty-five percent (125%) of the Prevailing Market Price (as defined therein) calculated as of the Business Day of the corresponding Fletcher Notice (as defined below) (except as otherwise provided in this sub-section 1(c)); and (B) the number of Additional Preferred Shares issued pursuant to each Subsequent Certificate of Rights and Preferences may differ from the number of shares of Series A-1 Preferred Stock. To exercise any Fletcher Rights, Fletcher shall deliver one or more written notices substantially in the form attached hereto as Annex B (a "Fletcher Notice") to Cal Dive from time to time commencing from the date six (6) months after and excluding the date hereof (the "Fletcher Rights Commencement Date") and ending no later than twenty-four (24) months after and excluding the Fletcher Rights Commencement Date (the "Fletcher Rights Period"). Fletcher may not deliver a Fletcher Notice on any date on which the volume-weighted average price of Cal Dive common stock, no par value ("Common Stock") is less than twenty four dollars (\$24.00), as adjusted pursuant to Sections 8 and 9(b) (the "Fletcher Rights Trigger Price"); provided, however, if Fletcher could exercise the Fletcher Rights but for the fact that the Fletcher Rights Trigger Price condition is not met, then Fletcher shall have the right to exercise the Fletcher Rights and receive Additional Preferred Shares which shall have the same Conversion Price as the Series A-1 Preferred Stock (x) assuming, solely for the purposes of determining the Conversion Price for such series of Additional Preferred Shares, that Series A-1 Preferred Stock is then outstanding and (y) making all appropriate adjustments to the Conversion Price, as set forth in this Agreement, the Certificate of Rights and Preferences and Subsequent Certificate of Rights and Preferences, until and including the date of the closing of the exercise of such Fletcher Rights. Upon satisfaction or, if applicable, waiver of the relevant conditions set forth in Sections 13 and 14 hereof, the closing of each exercise of Fletcher Rights (each, a "Subsequent Closing") shall take place on the date that is three (3) Business Days following and excluding the date of delivery of the Fletcher Notice or on such other date as Fletcher and Cal Dive shall mutually agree (such date and time being referred to herein as the "Subsequent Closing Date," and together with the Initial Closing Date, each a "Closing Date").

(d) As used herein, the term "Common Shares" means the shares of Common Stock issuable upon conversion or redemption of or as dividends under the Series A Preferred Shares, and all other Common Stock issuable under the Certificate of Rights and Preferences, Subsequent Certificates of Rights and Preferences or this Agreement; the term "Investment Securities" means the Series A Preferred Shares issued hereunder, the Fletcher Rights and all Common Shares; the term "Business Day" means any

day on which the Common Stock may be traded on the Nasdaq or, if not admitted for trading on the Nasdaq, on any day other than a Saturday, Sunday or holiday on which banks in New York City are required or permitted to be closed; the term "Nasdaq NMS" means the Nasdaq National Market; and the term "Nasdaq" means the Nasdaq NMS, but if the Nasdaq NMS is not then the principal U.S. trading market for the Common Stock, then "Nasdaq" shall be deemed to mean the principal U.S. national securities exchange (as defined in the Securities Exchange Act of 1934, as amended (the "Exchange Act")) on which the Common Stock, or such other applicable common stock, is then traded, or if such Common Stock, or such other applicable common stock, is not then listed or admitted to trading on any national securities exchange but is designated as a Nasdaq SmallCap Market Security by the National Association of Securities Dealers, Inc. ("NASD"), then such market system, or if such Common Stock, or such other applicable common stock, is not listed or quoted on any of the foregoing, then the OTC Bulletin Board.

2. Initial Closing. The Initial Closing shall take place initially via facsimile on the Initial Closing Date in the manner set forth below; provided, that, original certificates representing shares of Series A-1 Preferred Stock shall be delivered via Federal Express or another reputable overnight carrier to the address set forth in Annex AA.

At the Initial Closing, the following deliveries shall be made:

(a) Series A-1 Preferred Stock. Cal Dive shall deliver to Fletcher five (5) stock certificates, each representing five thousand (5,000) shares of Series A-1 Preferred Stock, duly executed by Cal Dive in definitive form, and shall register such shares in the shareholder register of Cal Dive in the name of Fletcher or as instructed by Fletcher in writing.

(b) Purchase Price. Fletcher shall cause to be wire transferred to Cal Dive, in accordance with the instructions set forth in Section 19, the aggregate purchase price of twenty-five million dollars (\$25,000,000) in immediately available United States funds.

(c) Closing Documents. The closing documents required by Sections 13 and 14 shall be delivered to Fletcher and Cal Dive, respectively.

(d) Delivery Notice. An executed copy of the delivery notice in the form attached hereto as Annex C shall be delivered to Fletcher.

The deliveries specified in this Section 2 shall be deemed to occur simultaneously as part of a single transaction, and no delivery shall be deemed to have been made until all such deliveries have been made.

3. Subsequent Closing. Each Subsequent Closing shall take place initially via facsimile on the Subsequent Closing Date in the manner set forth below; provided, that, original certificates representing Additional Preferred Shares shall be delivered via Federal Express or another reputable overnight carrier to Fletcher as Fletcher instructs in writing. Each Subsequent

Closing shall be for an Additional Issuance Price (as hereinafter defined) of not less than five million dollars (\$5,000,000), unless the Additional Issuance Price for all then remaining Fletcher Rights is less than five million dollars (\$5,000,000), in which instance, such Subsequent Closing shall be for the Additional Issuance Price for all such remaining Additional Preferred Shares. At each Subsequent Closing, the following deliveries shall be made:

(a) Additional Preferred Shares. Cal Dive shall issue and deliver to Fletcher stock certificates, each representing five thousand (5,000) Additional Preferred Shares (except that to the extent the number of Additional Preferred Shares to be delivered is not evenly divisible by five thousand (5,000), one (1) stock certificate shall represent the remaining shares), duly executed by Cal Dive, and shall register such shares in the shareholder register of Cal Dive in the name of Fletcher or as instructed by Fletcher in writing.

(b) Purchase Price. Fletcher shall cause to be wire transferred to Cal Dive, in accordance with the instructions set forth in Section 19, one thousand dollars (\$1,000) per Additional Preferred Share, as specified in the applicable Fletcher Notice (in the aggregate, the "Additional Issuance Price") payable on such Subsequent Closing Date, in immediately available United States funds.

(c) Closing Documents. The closing documents required by Sections 13 and 14 shall be delivered to Fletcher and Cal Dive, respectively.

(d) Delivery Notice. An executed copy of the delivery notice in the form attached hereto as Annex C shall be delivered to Fletcher.

The deliveries specified in this Section 3 shall be deemed to occur simultaneously as part of a single transaction, and no delivery shall be deemed to have been made until all such deliveries have been made.

4. Representations and Warranties of Cal Dive. Cal Dive hereby represents and warrants to Fletcher on each Closing Date, as follows:

(a) Cal Dive has been duly incorporated and is validly existing in good standing under the laws of Minnesota or, after the Initial Closing Date, if another entity has succeeded Cal Dive in accordance with the terms hereof, under the laws of one of the states of the United States or the District of Columbia.

(b) The execution, delivery and performance of this Agreement, the Certificate of Rights and Preferences and the Subsequent Certificates of Rights and Preferences (including the authorization, sale, issuance and delivery of the Investment Securities) have been duly authorized by all requisite corporate action and no further consent or authorization of Cal Dive, its Board of Directors or its shareholders is required, except as otherwise contemplated by this Agreement.

(c) This Agreement has been duly executed and delivered by Cal Dive and, when this Agreement is duly authorized, executed and delivered by Fletcher, will be a valid and binding agreement enforceable against Cal Dive in accordance with its terms, subject to bankruptcy, insolvency,

reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights generally and to general principles of equity. The issuance of the Investment Securities is not and will not be subject to any preemptive right or rights of first refusal that have not been properly waived or complied with.

(d) Cal Dive has full corporate power and authority necessary to (i) own and operate its properties and assets, execute and deliver this Agreement, (ii) perform its obligations hereunder and under the Certificate of Rights and Preferences or Subsequent Certificates of Rights and Preferences (including, but not limited to, the issuance of the Investment Securities) and (iii) carry on its business as presently conducted and as presently proposed to be conducted. Cal Dive and its subsidiaries are duly qualified and are authorized to do business and are in good standing as foreign corporations in all jurisdictions in which the nature of their activities and of their properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not, individually or in the aggregate, be reasonably expected to have a material adverse effect on (i) the business affairs, assets, results of operations or prospects of Cal Dive or any of its subsidiaries, or (ii) the transactions contemplated by, or Cal Dive's ability to perform under, this Agreement, the Certificate of Rights and Preferences or any Subsequent Certificate of Rights and Preferences.

(e) No consent, approval, authorization or order of any court, governmental agency or other body is required for execution and delivery by Cal Dive of this Agreement or the performance by Cal Dive of any of its obligations hereunder and under the Certificate of Rights and Preferences or Subsequent Certificates of Rights and Preferences other than the approval of the SEC of the Registration Statement to be filed pursuant to the terms hereof.

(f) Neither the execution and delivery by Cal Dive of this Agreement nor the performance by Cal Dive of any of its obligations hereunder and under the Certificate of Rights and Preferences or Subsequent Certificates of Rights and Preferences:

(i) violates, conflicts with, results in a breach of, or constitutes a default (or an event which with the giving of notice or the lapse of time or both would be reasonably likely to constitute a default) or creates any rights in respect of any person under (A) the certificates of incorporation or by-laws of Cal Dive or any of its subsidiaries, (B) any decree, judgment, order, law, treaty, rule, regulation or determination of any court, governmental agency or body, or arbitrator having jurisdiction over Cal Dive or any of its subsidiaries or any of their respective properties or assets, (C) the terms of any bond, debenture, indenture, credit agreement, note or any other evidence of indebtedness, or any agreement, stock option or other similar plan, lease, mortgage, deed of trust or other instrument to which Cal Dive or any of its subsidiaries is a party, by which Cal Dive or any of its subsidiaries is bound, or to which any of the properties or assets of Cal Dive or any of its subsidiaries is subject, (D) the terms of any "lock-up" or similar

provision of any underwriting or similar agreement to which Cal Dive or any of its subsidiaries is a party, (E) any rule or regulation of the NASD or the Nasdaq NMS or any rule or regulation of the markets where Cal Dive's securities are publicly traded or quoted applicable to Cal Dive or the transactions contemplated hereby or (F) the Second Amended and Restated Loan and Security Agreement, dated as of February 22, 2002, by and among Fleet Capital Corporation, Southwest Bank of Texas, N.A. and Whitney National Bank, as lenders, and Cal Dive, Energy Resource Technology, Inc., Aquatica, Inc., and Canyon Offshore, Inc., as borrower, as amended; or

(ii) results in the creation or imposition of any lien, charge or encumbrance upon any Investment Securities or upon any of the properties or assets of Cal Dive or any of its subsidiaries.

(g) Cal Dive has validly reserved for issuance to Fletcher under this Agreement seven million, four hundred eighty-six thousand, nine hundred seven (7,486,907) shares of Common Stock. When issued to Fletcher against payment therefor, each Investment Security:

(i) will have been duly and validly authorized, duly and validly issued, fully paid and non-assessable;

(ii) will be free and clear of any security interests, liens, claims or other encumbrances; and

(iii) will not have been issued or sold in violation of any preemptive or other similar rights of the holders of any securities of Cal Dive.

(h) Cal Dive satisfies all maintenance criteria of the Nasdaq NMS. No present set of facts or circumstances will (with the passage of time or the giving of notice or both or neither) cause any of the Common Stock to be delisted from the Nasdaq NMS. All of the Common Shares will, when issued, be duly listed and admitted for trading on all of the markets where shares of Common Stock are traded, including the Nasdaq NMS.

(i) There is no pending or, to the best knowledge of Cal Dive, threatened action, suit, proceeding or investigation before any court, governmental agency or body, or arbitrator having jurisdiction over Cal Dive or any of its affiliates that would affect the execution by Cal Dive of, or the performance by Cal Dive of its obligations under, this Agreement, the Certificate of Rights and Preferences or Subsequent Certificates of Rights and Preferences.

(j) Since January 1, 2000, none of Cal Dive's filings with the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "Securities Act") or under Section 13(a) or 15(d) of the Exchange Act (each an "SEC Filing"), including the financial statements and schedules of Cal Dive and results of Cal Dive's operations and cash flow contained therein, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements, in the light of the circumstances under which they were made,

not misleading. Since January 1, 2002, there has not been any pending or, to the best knowledge of Cal Dive, threatened action, suit, proceeding or investigation before any court, governmental agency or body, or arbitrator having jurisdiction over Cal Dive or any of its subsidiaries or any of its affiliates that could cause a material adverse change in the condition, financial or otherwise, or in the business affairs, assets, results of operations or prospects of Cal Dive and its subsidiaries, whether or not arising in the ordinary course of business, except as disclosed in Cal Dive's SEC Filings on or before the date immediately prior to and excluding the date hereof. Since the date of Cal Dive's most recent SEC Filing, there has not been, and Cal Dive is not aware of, any development or condition that is reasonably likely to result in, any material change in the condition, financial or otherwise, or in the business affairs, assets, results of operations or prospects of Cal Dive and its subsidiaries, whether or not arising in the ordinary course of business. Cal Dive's SEC Filings made before and excluding the Closing Date fully disclose all material information concerning Cal Dive and its subsidiaries (other than the existence and terms of this Agreement).

(k) The offer and sale of the Investment Securities to Fletcher pursuant to this Agreement will, subject to the accuracy of Fletcher's representations and warranties contained in Section 7 hereof and compliance by Fletcher with the applicable covenants and agreements contained in Section 11 hereof, be made in accordance with an exemption from the registration requirements of the Securities Act and any applicable state law. Neither Cal Dive nor any agent on its behalf has solicited or will solicit any offers to buy or has offered to sell or will offer to sell all or any part of the Investment Securities or any other securities to any person or persons so as to bring the sale of such Investment Securities by Cal Dive within the registration provisions of the Securities Act.

(l) Immediately prior to the Initial Closing Date, the authorized capital stock of Cal Dive consists of one hundred twenty million (120,000,000) shares of Common Stock, no par value and five million (5,000,000) shares of preferred stock, par value \$0.01 per share. Immediately prior to the Initial Closing Date, (A) thirty-seven million, four hundred eighty-four thousand, six hundred one (37,484,601) shares of Common Stock were issued and outstanding, and two million, nineteen thousand, three hundred thirty-nine (2,019,339) shares of Common Stock are currently reserved and subject to issuance upon the exercise of outstanding stock options, warrants or other convertible rights, (B) thirteen million, six hundred and two thousand, four hundred eighteen (13,602,418) shares of Common Stock are held in the treasury of Cal Dive, (C) no shares of preferred stock are issued and outstanding and (D) up to three million, seven hundred forty-eight thousand, four hundred sixty (3,748,460) additional shares of Common Stock may be issued under the 1995 Long-Term Incentive Plan. All of the outstanding shares of Common Stock are, and all shares of capital stock which may be issued pursuant to stock options, warrants or other convertible rights will be, when issued and paid for in accordance with the respective terms thereof, duly authorized, validly issued, fully paid and non-assessable, free of any preemptive rights in respect thereof and issued in compliance with all applicable state and federal laws concerning issuance of securities. As of the date hereof, except as set forth above or as disclosed in writing in Schedule 4(1) attached hereto, and except for shares of Common Stock or other securities issued upon conversion, exchange, exercise or purchase associated with the securities,

options, warrants, rights and other instruments referenced above, no shares of capital stock or other voting securities of Cal Dive were outstanding, no equity equivalents, interests in the ownership or earnings of Cal Dive or other similar rights were outstanding, and there were no existing options, warrants, calls, subscriptions or other rights or agreements or commitments relating to the capital stock of Cal Dive or any of its subsidiaries or obligating Cal Dive or any of its subsidiaries to issue, transfer, sell or redeem any shares of capital stock, or other equity interest in, Cal Dive or any of its subsidiaries or obligating Cal Dive or any of its subsidiaries to grant, extend or enter into any such option, warrant, call, subscription or other right, agreement or commitment.

(m) Solvency. The sum of the assets of Cal Dive, both at a fair valuation and at present fair salable value, exceeds its liabilities, including contingent liabilities. Cal Dive has sufficient capital with which to conduct its business as presently conducted and as proposed to be conducted. Cal Dive has not incurred debt, and does not intend to incur debt, beyond its ability to pay such debt as it matures. For purposes of this paragraph, "debt" means any liability on a claim, and "claim" means (x) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or (y) a right to an equitable remedy for breach of performance if such breach gives rise to a payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured. With respect to any such contingent liabilities, such liabilities are computed at the amount which, in light of all the facts and circumstances existing at the time, represents the amount which can reasonably be expected to become an actual or matured liability.

(n) Equivalent Value. As of the Initial Closing Date, the consideration that Cal Dive is receiving from Fletcher is equivalent in value to the consideration Fletcher is receiving from Cal Dive pursuant to this Agreement. As of the Initial Closing Date, under the terms of this Agreement, Cal Dive is receiving fair consideration from Fletcher for the agreements, covenants, representations and warranties made by Cal Dive to Fletcher.

(o) No Non-Public Information. Fletcher has not requested from Cal Dive, and Cal Dive has not furnished to Fletcher, any material non-public information concerning Cal Dive or its subsidiaries.

(p) Restatement Notices. As of each Subsequent Closing Date, Cal Dive has provided Fletcher with all Restatement Notices (as defined in the Certificate of Rights and Preferences or Subsequent Certificates of Rights and Preferences) required to be delivered following a Restatement (as defined in the Certificate of Rights and Preferences or Subsequent Certificates of Rights and Preferences).

#### 5. Registration Provisions.

(a) Cal Dive shall, as soon as practicable and at its own expense, but in no event later than sixty (60) calendar days after, and including, the date hereof, file a



Registration Statement (as defined below) under the Securities Act covering the resale of all of the Common Shares and shall use its commercially reasonable efforts to cause such Registration Statement to be declared effective on or prior to one hundred and twenty-one (121) calendar days following, and including, the date hereof (the "Required Registration Date"). The obligations to have the Registration Statement declared effective and to maintain such effectiveness as provided in this Section 5 are referred to herein as the "Registration Requirement." Pursuant to the preceding sentence, Cal Dive shall register pursuant to such Registration Statement not less than the number of shares of Common Stock equal to seven million, four hundred eighty-six thousand, nine hundred seven (7,486,907) (the "Registrable Number"). Cal Dive shall promptly amend such Registration Statement (or, if necessary, file a new Registration Statement) at any time that the number of Common Shares issued and issuable under this Agreement, the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences exceeds the Registrable Number (as determined on such date) so that all such Common Shares shall be registered and freely tradable.

(b) Each Common Share is a "Covered Security" and the registration statement filed or required to be filed under the Securities Act in accordance with Section 5(a) hereof, along with any amendments and additional registration statements, is referred to as the "Registration Statement". Cal Dive shall provide prompt written notice to Fletcher when the Registration Statement has been declared effective by the SEC.

(c) Cal Dive will: (A) use its commercially reasonable efforts to keep the Registration Statement effective until the earlier of (x) the later of (i) the second anniversary of the issuance of the last Covered Security that may be issued, or (ii) such time as all of the Covered Securities issued or issuable hereunder can be sold by Fletcher or any of its affiliates immediately without compliance with the registration requirements of the Securities Act pursuant to Rule 144 under the Securities Act ("Rule 144") and (y) the date all of the Covered Securities issued or issuable shall have been sold by Fletcher and its affiliates (such later period, the "Registration Period"); (B) prepare and file with the SEC such amendments and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement (as so amended and supplemented from time to time, the "Prospectus") as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all Covered Securities by Fletcher or any of its affiliates; (C) furnish such number of Prospectuses and other documents incident thereto, including any amendment of or supplement to the Prospectus, as Fletcher from time to time may reasonably request; (D) cause all Covered Securities to be listed on each securities exchange and quoted on each quotation service on which similar securities issued by Cal Dive are then listed or quoted; (E) provide a transfer agent and registrar for all Covered Securities and a CUSIP number for all Covered Securities; (F) otherwise comply with all applicable rules and regulations of the SEC, the Nasdaq NMS and any other exchange or quotation service on which the Covered Securities are obligated to be listed or quoted under this Agreement; and (G) file the documents required of Cal Dive and otherwise obtain and maintain requisite blue sky clearance in (x) New York and all other jurisdictions in which any of the shares of Common Stock were originally sold and (y) all other states specified in writing by Fletcher, provided, however, that as to this clause (y), Cal Dive shall not be

required to qualify to do business or consent to service of process in any state in which it is not now so qualified or has not so consented. Fletcher shall have the right to approve the description of the selling shareholder, plan of distribution and all other references to Fletcher and its affiliates contained in each Registration Statement and Prospectus.

(d) Cal Dive shall furnish to Fletcher upon request a reasonable number of copies of a supplement to or an amendment of any Prospectus as may be necessary in order to facilitate the public sale or other disposition of all or any of the Covered Securities by Fletcher or any of its affiliates pursuant to the Registration Statement.

(e) With a view to making available to Fletcher and its affiliates the benefits of Rule 144 and Form S-3 under the Securities Act, Cal Dive covenants and agrees to: (A) make and keep available adequate current public information (within the meaning of Rule 144(c)) concerning Cal Dive, until the earlier of (x) the second (2nd) anniversary of the issuance of the last Covered Security to be issued and (y) such date as all of the Covered Securities shall have been resold by Fletcher or any of its affiliates; and (B) furnish to Fletcher upon request, as long as Fletcher owns any Covered Securities, (x) a written statement by Cal Dive that it has complied with the reporting requirements of the Securities Act and the Exchange Act, (y) a copy of the most recent annual or quarterly report of Cal Dive, and (z) such other information as may be reasonably requested in order to avail Fletcher and its affiliates of Rule 144 or Form S-3 with respect to such Covered Securities.

(f) Notwithstanding anything else in this Section 5, if, at any time during which a Prospectus is required to be delivered in connection with the sale of any Covered Security, Cal Dive determines in good faith and upon the advice of its outside counsel that a development has occurred or a condition exists as a result of which the Registration Statement or the Prospectus contains a material misstatement or omission, or that a material transaction in which Cal Dive is engaged or proposes to engage would require an immediate amendment to the Registration Statement, a supplement to the Prospectus, or a filing under the Exchange Act or other public disclosure of material information and the disclosure of such transaction would be premature or injurious to the consummation of the transaction, Cal Dive will immediately notify Fletcher thereof by telephone and in writing. Upon receipt of such notification, Fletcher and its affiliates will immediately suspend all offers and sales of any Covered Security pursuant to the Registration Statement. In such event, Cal Dive will amend or supplement the Registration Statement and the Prospectus or make such filings or public disclosures as promptly as practicable and will take such other steps as may be required to permit sales of the Covered Securities thereunder by Fletcher and its affiliates in accordance with applicable federal and state securities laws. Cal Dive will promptly notify Fletcher after it has determined in good faith that such sales have become permissible in such manner and will promptly deliver copies of the Registration Statement and the Prospectus (as so amended or supplemented, if applicable) to Fletcher in accordance with paragraphs (c) and (d) of this Section 5. Notwithstanding the foregoing, (A) under no circumstances shall Cal Dive be entitled to exercise its right to suspend sales of any Covered Securities as provided in this Section 5(f) and pursuant to the Registration Statement more than

twice in any twelve (12) month period, (B) the period during which such sales may be suspended (each a "Blackout Period") at any time shall not exceed thirty (30) calendar days, and (C) no Blackout Period may commence less than thirty (30) calendar days after the end of the preceding Blackout Period.

(g) Upon the commencement of a Blackout Period pursuant to this Section 5, Fletcher will notify Cal Dive of any contract to sell, assign, deliver or otherwise transfer any Covered Security (each a "Sales Contract") that Fletcher or any of its affiliates has entered into prior to the commencement of such Blackout Period and that would require delivery of such Covered Securities during such Blackout Period, which notice will contain the aggregate sale price and quantity of Covered Securities pursuant to such Sales Contract. If Fletcher or any of its affiliates are therefore unable to consummate the sale of Covered Securities pursuant to the Sales Contract, Cal Dive will promptly indemnify each Fletcher Indemnified Party (as such term is defined in Section 17(a) below) against any Proceeding (as such term is defined in Section 17(a) below) that each Fletcher Indemnified Party may incur arising out of or in connection with Fletcher's breach or alleged breach of any such Sales Contract, and Cal Dive shall reimburse each Fletcher Indemnified Party for any reasonable costs or expenses (including legal fees) incurred by such party in investigating or defending any such Proceeding.

(h) In addition to any other remedies available to Fletcher under this Agreement or at law or equity, if the Registration Statement has not been declared effective by the Required Registration Date or such Registration Statement is not available with respect to all Covered Securities at any time on or after the Required Registration Date (except during a Blackout Period permitted under Section 5(f)) Cal Dive shall cause to be wire transferred to an account specified by Fletcher on the last Business Day of each month an amount, in immediately available United States funds, equal to:

$$1/15\% \times ND \times SV$$

Where:

ND= the number of days in such month that the Registration Statement has not been declared effective by the Required Registration Date or such Registration Statement is not available with respect to shares of Covered Securities that may not otherwise be sold by Fletcher or any of its affiliates immediately pursuant to Rule 144 without compliance with the registration requirements of the Securities Act ("Non-Rule 144 Stock"); and

SV= the aggregate Stated Value (as defined in the Certificate of Rights and Preferences and all Subsequent Certificates of Rights and Preferences) of the average number of shares of Non-Rule 144 Stock issued and outstanding on each of the days included in "ND" above.

(i) If the Registration Requirement is not satisfied at any point in time during the Registration Period then the Fletcher Rights Period shall be extended by one (1) day for each day (or portion thereof) that the Registration Requirement shall have not been satisfied.

#### 6. Conversion and Redemption of Preferred Shares.

(a) Preferred Shares and Additional Preferred Shares are convertible and redeemable into Common Shares or cash in accordance with the terms and conditions set forth in Section 6 of the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences. Cal Dive grants Fletcher the right to convert all or part of each series of Series A Preferred Shares (including any accrued and unpaid dividends) pursuant to the terms and conditions set forth in the Certificate of Rights and Preferences or Subsequent Certificate of Rights and Preferences of each such series, upon delivery of a "Preferred Stock Conversion Notice" in the form attached hereto as Annex D. As set forth in the Certificate of Rights and Preferences or Subsequent Certificate of Rights and Preferences of each such series, Cal Dive may satisfy its conversion obligations by delivering shares of Common Stock or cash. The form of the "Preferred Stock Conversion Delivery Notice" to be executed and delivered by Cal Dive to Fletcher, as specified in the Certificate of Rights and Preferences or Subsequent Certificate of Rights or Preferences is attached hereto as Annex E. Cal Dive grants Fletcher the right to redeem all or part of each series of Series A Preferred Shares (including any accrued and unpaid dividends) commencing December 31, 2004 pursuant to the terms and conditions set forth in the Certificate of Rights and Preferences or Subsequent Certificate of Rights and Preferences of each such series (or sooner under certain circumstances set forth therein) (the "Redemption Rights"), upon delivery of a notice of redemption in the form attached hereto as Annex F (the "Redemption Notice"). As set forth in the Certificate of Rights and Preferences or Subsequent Certificate of Rights or Preferences of each such series, Cal Dive may satisfy its redemption obligations by delivering shares of Common Stock, cash or, subject to Section 6(b), resetting the Conversion Prices of the Series A-1 Preferred Stock and Additional Preferred Shares. The form of the "Preferred Stock Redemption Delivery Notice" to be executed and delivered by Cal Dive to Fletcher, as specified in the Certificate of Rights and Preferences or Subsequent Certificate of Rights and Preferences is attached hereto on Annex G.

(b)

(i) If the Daily Market Price (as defined in the Certificate of Rights and Preferences) is less than the Minimum Price (as defined below) on any date, then (A) Cal Dive shall provide Fletcher within two (2) Business Days with a written notice that either (1) (a) Cal Dive shall satisfy all its future redemption obligations in cash or in a combination of Common Stock and cash, provided that in no event shall the total number of shares of Common Stock issued or issuable hereunder exceed seven million, four hundred eighty-six thousand, nine hundred seven (7,486,907) shares, and (b) following such notice, notwithstanding anything herein to the contrary, if a Restatement (as defined in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences) has occurred on or after

December 31, 2002, then Fletcher shall have the right to cause the redemption of its Preferred Shares and Additional Preferred Shares, from time to time, thereafter, or (2) that the Conversion Prices on all Preferred Shares and Additional Preferred Shares shall be reset to equal the Minimum Price and all Conversion Prices of future Additional Preferred Shares to be issued shall equal the Minimum Price, and upon delivery of such notice such Conversion Prices shall be so reset and Fletcher shall have no further right to cause the redemption of its Preferred Shares or Additional Preferred Shares thereafter, and (B) Cal Dive shall no longer be permitted to pay dividends by the issuance of Common Stock (an "Issuance Blockage").

(ii) The "Minimum Price" shall initially equal \$7.3461. Upon the payment of dividends in, or the conversion or redemption of any Preferred Shares or Additional Preferred Shares for, Common Stock, the Minimum Price shall be reset to equal:

\$55,000,0000 - FV - XR

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7,486,907 - DS - CS

Where:

FV= the aggregate face value of all Preferred Shares and Additional Preferred Shares that have been converted or redeemed for Common Stock;

XR= one thousand dollars (\$1,000) times the number of Additional Preferred Shares that had been potentially issuable under expired and unexercised Fletcher Rights;

DS= the aggregate number of shares of Common Stock issued in payment of dividends to and including such date; and

CS= the aggregate number of shares of Common Stock issued upon conversion or redemption of Preferred Shares or Additional Preferred Shares to and including such date.

(c) The aggregate number of shares of Common Stock issued, as of a particular date, upon conversion or redemption of, or as dividends paid on the Series A Preferred Shares owned by Fletcher and issuable pursuant to this Agreement shall not exceed the Maximum Number as of that date. The "Maximum Number" shall initially equal three million, five hundred fifty-eight thousand, sixty (3,558,060) and may be increased upon expiration of a 65-day notice period (the "Notice Period") after Fletcher delivers a notice (a "65 Day Notice") to Cal Dive designating a greater Maximum Number. A 65 Day Notice may be given at any time. From time to time following the

Notice Period, Common Stock may be issued to Fletcher for any quantity of Common Stock, such that the aggregate number of shares of Common Stock issued hereunder is less than or equal to the Maximum Number.

7. Representations and Warranties of Fletcher. Fletcher hereby represents and warrants to Cal Dive on each Closing Date:

(a) Fletcher has been duly incorporated and is validly existing under the laws of Bermuda.

(b) The execution, delivery and performance of this Agreement by Fletcher have been duly authorized by all requisite corporate action and no further consent or authorization of Fletcher, its Board of Directors or its shareholders is required. This Agreement has been duly executed and delivered by Fletcher and, when duly authorized, executed and delivered by Cal Dive, will be a valid and binding agreement enforceable against Fletcher in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights generally and to general principles of equity.

(c) Fletcher understands that no United States federal or state agency has passed on, reviewed or made any recommendation or endorsement of the Investment Securities.

(d) Fletcher is an "accredited investor" as such term is defined in Regulation D promulgated under the Securities Act.

(e) Fletcher is purchasing the Investment Securities for its own account for investment only and not with a view to, or for resale in connection with, the public sale or distribution thereof in the United States, except pursuant to sales registered under the Securities Act or an exemption therefrom.

(f) Fletcher understands that the Investment Securities are being or will be offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that Cal Dive is relying on the truth and accuracy of, and Fletcher's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Fletcher set forth herein in order to determine the availability of such exemptions and the eligibility of Fletcher to acquire the Investment Securities.

8. Future Equity Issuances. If, within twenty (20) Business Days following the Initial Closing Date, there is (i) a public disclosure of Cal Dive's intention or agreement to engage in, or (ii) a consummation of, any sale or issuance to any Person or Persons (other than Fletcher or its affiliates) of any shares of, or securities convertible into, exercisable or exchangeable for, or whose value is derived in whole or in part from, any shares of any class of Cal Dive's capital stock, then Cal Dive shall promptly notify Fletcher of such disclosure or such consummation, which notice shall include a copy of such disclosure or the terms and date of such consummation (the "Equity Issuance Notice"). After the date of such disclosure or such consummation, Fletcher

shall have the right, at its sole discretion, to deliver a notice to Cal Dive (a "Price Adjustment Notice") no later than five (5) Business Days after and excluding the date the Equity Issuance Notice is delivered; provided, however, if the closing of such transaction occurs at a later date, Fletcher shall have the right, at its sole discretion, to deliver a new Price Adjustment Notice or replace an existing Price Adjustment Notice no later than five (5) Business Days after such closing date. If Fletcher delivers a Price Adjustment Notice to Cal Dive, then (x) the Conversion Price (as defined in the Certificate of Rights and Preferences) shall be reset to equal one hundred twenty-five percent (125%) of the Daily Market Price (as defined therein) and (y) the Fletcher Rights Trigger Price shall adjust to equal one hundred percent (100%) of the Daily Market Price, in each case calculated as of the Business Day immediately preceding the date of delivery of such Price Adjustment Notice.

9. Covenants of Cal Dive. Cal Dive covenants and agrees with Fletcher as follows:

(a) For so long as Fletcher owns or has the right to purchase any Investment Securities, and for a period of one (1) year thereafter, Cal Dive will (i) maintain the eligibility of the Common Stock for listing on the Nasdaq NMS; (ii) regain the eligibility of the Common Stock for listing or quotation on all markets and exchanges including the Nasdaq NMS in the event that the Common Stock is delisted by the Nasdaq NMS or any other applicable market or exchange; and (iii) cause the representations and warranties contained in Section 4 to be and remain true and correct.

(b) If a Restatement (as defined in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences) occurs, Cal Dive shall deliver to Fletcher a Restatement Notice (as defined in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences) within three (3) Business Days of such Restatement and the Fletcher Rights Trigger Price shall adjust to equal the lower of (i) the Fletcher Rights Trigger Price immediately before such Restatement and (ii) the Daily Market Price (as defined in the Certificate of Rights and Preferences) on the Business Day immediately preceding the date of delivery of the Restatement Adjustment Notice (as defined in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences).

(c) Cal Dive will provide Fletcher with a reasonable opportunity, which shall not be less than two (2) full Business Days, to review and comment on any public disclosure by Cal Dive of information regarding this Agreement and the transactions contemplated hereby, before such public disclosure.

(d) Cal Dive will make all filings required by law with respect to the transactions contemplated hereby.

(e) Cal Dive will comply with the terms and conditions of the Series A Preferred Shares as set forth in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences, and will not amend the Certificate of Rights and

Preferences or Subsequent Certificates of Rights and Preferences without the required consent of the holders of Series A Preferred Shares.

(f) For so long as Fletcher holds any Investment Securities, prior to the filing of each of its quarterly reports on Form 10-Q with the SEC, Cal Dive shall deliver to Fletcher a review report relating to the final consolidated unaudited financial statements contained therein, prepared by Ernst & Young LLP, or another nationally recognized accounting firm in accordance with Statement on Auditing Standards No. 71.

(g) Cal Dive shall use its commercially reasonable efforts to cause the Common Shares to be eligible for book-entry transfer through The Depository Trust Company (or any successor thereto) as soon as practicable after the date of this Agreement and thereafter to use its commercially reasonable efforts to maintain such eligibility.

(h) Cal Dive shall at all times reserve for issuance such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all such Series A Preferred Shares and to satisfy its delivery obligation upon such conversion, to effect the redemption of the Series A Preferred Shares and to satisfy its delivery obligation with respect to dividends.

(i) Cal Dive shall, (i) when the number of shares of Common Stock outstanding is two hundred and fifty thousand (250,000) shares greater than the number of shares of Common Stock outstanding as designated in the previous Increase Notice (as hereinafter defined), or (ii) in the event that Cal Dive has not delivered an Increase Notice, when the number of shares of Common Stock outstanding is two hundred and fifty thousand (250,000) shares greater than the number of shares of Common Stock specified in Section 4(1), deliver a notice (an "Increase Notice") stating (x) the increase, if any, in the aggregate number of shares of Common Stock outstanding as of the last day of the preceding month over the number outstanding as of the last day of the month of the preceding Increase Notice, or (y) in the event that Cal Dive has not delivered a prior Increase Notice, the increase, if any, in the aggregate number of shares of Common Stock outstanding as of the last day of the preceding month over number of shares outstanding specified in Section 4(1). Unless expressly waived by Fletcher, Cal Dive shall deliver an Increase Notice to Fletcher on or before the tenth (10th) day of any calendar month for which an Increase Notice is required to be delivered pursuant to this sub-section.

(j) Cal Dive shall, within one (1) Business Day after and excluding each Closing Date, publicly distribute a press release disclosing the material terms of such Initial Closing or Subsequent Closing and shall, within three (3) Business Days after and excluding each Closing Date file a report with the SEC on Form 8-K with respect to the same.

(k) As soon as practicable after filing with the SEC, Cal Dive shall furnish to Fletcher (i) a true, correct and complete copy of a report of Ernst & Young LLP together with accompanying consolidated financial statements and schedules of Cal Dive at December 31, 2002 and the results of Cal Dive's operations and cash flows for



the one (1) year period ended December 31, 2002, certified by Ernst & Young LLP, and (ii) the written consent of Ernst & Young LLP to furnishing such report as described in clause (i) above.

10. Change of Control. (B) If Cal Dive is a party to any transaction which results in a Change of Control, Fletcher and its assigns shall have the rights set forth in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences regarding Changes of Control in addition to the rights contained in this Agreement. Cal Dive agrees that it will not enter into an agreement with an Acquiring Person resulting in a Change of Control unless such agreement expressly obligates the Acquiring Person to assume all of Cal Dive's obligations under this Agreement, the Certificate of Rights and Preferences and the Subsequent Certificates of Rights and Preferences including, but not limited to, the dividend, liquidation, conversion, redemption, voting and other provisions regarding the Series A Preferred Shares and the Fletcher Rights contained herein and therein. Without limiting the foregoing, all unexercised and unexpired Fletcher Rights shall automatically be converted into equivalent rights with respect to the Acquiring Person including, but not limited to, the right to receive the equivalent of the Additional Preferred Shares issuable upon the exercise of such rights and to receive the consideration for such Additional Preferred Shares set forth in Section 6(F) of the Subsequent Certificate of Rights and Preferences governing such series of Additional Preferred Shares.

(C) The Fletcher Rights shall become exercisable immediately on and after the date a public announcement is made of Cal Dive's or any other Person's intention or agreement to engage in a transaction or series of transactions that may result in a Change of Control.

(D) On or before the date an agreement is entered into with an Acquiring Person resulting in a Change of Control, Cal Dive shall deliver to Fletcher written notice that the Acquirer has assumed such obligations. Cal Dive shall provide Fletcher with written notice of any proposed transaction resulting in a Change of Control as soon as the existence of such proposed transaction is made public by any person. Thereafter, Cal Dive shall notify Fletcher promptly of any material developments with respect to such transaction, including advance notice at least ten (10) Business Days before the date such transaction is expected to become effective.

(E) "Change of Control" means (a) acquisition of the Company by means of merger or other form of corporate reorganization in which outstanding shares of the Company are exchanged for securities or other consideration issued, or caused to be issued, by the Acquiring Person (as hereinafter defined) or its Parent, Subsidiary or affiliate, other than a restructuring by the Company where outstanding shares of the Company are exchanged for shares of the Acquiring Person on a one-for-one basis and, immediately following the exchange, former shareholders of the Company own all of the outstanding shares of the Acquiring Person on the same pro rata basis as prior to the exchange, (b) a sale of all or substantially all of the assets of the Company (on a consolidated basis) in a single transaction or series of related transactions, (c) any other transaction or series of related transactions by the Company in which the power to cast the majority of the eligible votes at a meeting of the Company's stockholders at which directors are elected is transferred to a single entity

or group acting in concert, or (d) a capital reorganization or reclassification of the Common Stock or Other Securities (as defined in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences) (other than a reorganization or reclassification in which the Common Stock or Other Securities are not converted into or exchanged for cash or other property, and, immediately after consummation of such transaction, the stockholders of the Company immediately prior to such transaction own the Common Stock, Other Securities or other voting stock of the Company in substantially the same proportions relative to each other as such stockholders owned immediately prior to such transaction). Notwithstanding anything contained herein to the contrary, the change in the state of incorporation of the Company shall not in and of itself constitute a Change of Control.

(F) "Acquiring Person" means, in connection with any Change of Control, (a) the continuing or surviving corporation of a consolidation or merger with the Company (if other than the Company), (b) the transferee of all or substantially all of the properties or assets of the Company, (c) the corporation consolidating with or merging into the Company in a consolidation or merger in connection with which the Common Stock is changed into or exchanged for stock or other securities of any other Person or cash or any other property, (d) the entity or group acting in concert acquiring or possessing the power to cast the majority of the eligible votes at a meeting of the Company's shareholders at which directors are elected, or, (e) in the case of a capital reorganization or reclassification, the Company, or (f) at Fletcher's election, any Person that (i) controls the Acquiring Person directly or indirectly through one or more intermediaries, (ii) is required to include the Acquiring Person in the consolidated financial statements contained in such Parent's Annual Report on Form 10-K (if such Person is required to file such a report) or would be required to so include the Acquiring Person in such Person's consolidated financial statements if they were prepared in accordance with U.S. GAAP and (iii) is not itself included in the consolidated financial statements of any other Person (other than its consolidated subsidiaries).

11. Covenants of Fletcher. Fletcher hereby covenants and agrees with Cal Dive that:

(a) Neither Fletcher, nor any of its affiliates, will at any time offer or sell any Investment Securities other than pursuant to an effective registration statement under the Securities Act or pursuant to an available exemption therefrom.

(b) Neither Fletcher, nor any of its affiliates, shall engage in "short sales" (as such term is defined by Exchange Act Rule 3b-3) of Common Stock, it being understood that nothing in this Agreement shall prohibit Fletcher or any of its affiliates from engaging in any transaction in any stock index, portfolio or derivative of which Common Stock is a component. The provisions of this Section 11(b) shall not be deemed to extend to any non-affiliated third party, including but not limited to, any assignee, pledgee, transferee or derivative or financing counterparty of Fletcher or any of its affiliates.

12. Legend. Subject to Section 5, Fletcher understands that the certificates or other instruments representing the Investment Securities shall bear a restrictive legend composed of exactly the following words (and a stop transfer order may be placed against transfer of such certificates or other instruments):

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS (1) THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, OR (2) THE SALE IS MADE IN ACCORDANCE WITH RULE 144 OR ANOTHER APPLICABLE EXEMPTION UNDER THE SECURITIES ACT. THE RELATIVE RIGHTS AND PREFERENCES OF SERIES A-1 CUMULATIVE PREFERRED STOCK OF THE COMPANY ARE DESCRIBED IN A CERTIFICATE THEREOF FILED WITH THE SECRETARY OF STATE OF THE STATE OF MINNESOTA, A COPY OF WHICH IS AVAILABLE FROM THE COMPANY BY CONTACTING THE GENERAL COUNSEL OF THE COMPANY.

The legend set forth above shall be removed and Cal Dive shall issue a certificate without such legend to any holder of Investment Securities if, unless otherwise required by state securities laws, such shares are sold pursuant to an effective Registration Statement under the Securities Act, Rule 144 or another applicable exemption from registration.

13. Conditions Precedent to Fletcher's Obligations. The obligations of Fletcher hereunder are subject to the performance by Cal Dive of its obligations hereunder and to the satisfaction of the following additional conditions precedent, unless expressly waived in writing by Fletcher:

(a) On each Closing Date, (i) the representations and warranties made by Cal Dive in this Agreement shall be true and correct, except those representations and warranties which address matters only as of a particular date, which shall be true and correct as of such date; (ii) Cal Dive shall have complied fully with all of the covenants and agreements in this Agreement; and (iii) Fletcher shall have received (A) on the Initial Closing Date a certificate of the Chief Executive Officer and the Chief Financial Officer of Cal Dive dated such date and to such effect and (B) on each Subsequent Closing Date a certificate of the Chief Executive Officer and the Chief Financial Officer of Cal Dive dated such date and to such effect.

(b) On each Closing Date, Cal Dive shall have delivered to Fletcher an opinion of Fulbright & Jaworski L.L.P. reasonably satisfactory to Fletcher, dated the date of delivery, confirming in substance the matters regarding enforceability covered in paragraph (c), and matters covered in the first grammatical sentence of paragraph (k), of Section 4 hereof. On each Closing Date, Cal Dive shall have delivered to Fletcher an opinion of Andrew C. Becher, Special Counsel to Cal Dive, reasonably satisfactory to Fletcher, dated the date of delivery, confirming in substance the matters covered in paragraphs (a), (b), (c) with respect to matters other than enforceability, (d) to the extent

not opined on by the General Counsel of Cal Dive, (e), (g) and (l), of Section 4 hereof. On each Closing Date, Cal Dive shall have delivered to Fletcher an opinion of James Lewis Connor, III, General Counsel of Cal Dive, reasonably satisfactory to Fletcher, dated the date of delivery, confirming in substance the matters covered in paragraphs (d) in part, and (f) of Section 4 hereof.

(c) On each Subsequent Closing Date, Fletcher shall receive a report of Ernst & Young LLP, or another nationally-recognized accounting firm, together with the accompanying consolidated financial statement and schedules of Cal Dive and results of Cal Dive's operations and cash flows, as such report appears in the most recent Form 10-K filed by Cal Dive with the SEC.

(d) On the Initial Closing Date, the Registrable Number shall be duly listed and admitted for trading on the Nasdaq NMS, subject to notice of issuance

(e) On or before the Initial Closing Date, Cal Dive shall have filed with the Minnesota Secretary of State the Certificate of Rights and Preferences. On or before each Subsequent Closing Date, Cal Dive shall have filed with the Minnesota Secretary of State a Subsequent Certificate of Rights and Preferences, with terms and conditions of the applicable series of Additional Preferred Shares as required by this Agreement.

14. Conditions Precedent to Cal Dive's Obligations. The obligations of Cal Dive hereunder are subject to the performance by Fletcher of its obligations hereunder and to the satisfaction (unless expressly waived in writing by Cal Dive) of the additional conditions precedent that, on each Closing Date: (i) the representations and warranties made by Fletcher in this Agreement shall be true and correct; (ii) Fletcher shall have complied fully with all the covenants and agreements in this Agreement; and (iii) Cal Dive shall have received on each such date a certificate of an appropriate officer of Fletcher dated such date and to such effect.

15. Fees and Expenses. Each of Fletcher and Cal Dive agrees to pay its own expenses incident to the performance of its obligations hereunder, including, but not limited to the fees, expenses and disbursements of such party's counsel, except as is otherwise expressly provided in this Agreement.

16. Non-Performance.

(a) If Cal Dive, at any time, shall fail to deliver the Investment Securities to Fletcher required to be delivered pursuant to this Agreement, in accordance with the terms and conditions of this Agreement, the Certificate of Rights and Preferences and the Subsequent Certificates of Rights and Preferences, for any reason other than the failure of any condition precedent to Cal Dive's obligations hereunder or the failure by Fletcher to comply with its obligations hereunder, then Cal Dive shall (without limitation to Fletcher's other remedies at law or in equity):

(i) indemnify and hold Fletcher harmless against any loss, claim or damage (including without limitation, incidental and consequential damages) arising from or as a result of such failure by Cal Dive; and

(ii) reimburse Fletcher for all of its reasonable out-of-pocket expenses, including fees and disbursements of its counsel, incurred by Fletcher in connection with this Agreement and the transactions contemplated herein and therein.

17. Indemnification.

(a) Indemnification of Fletcher. Cal Dive hereby agrees to indemnify Fletcher and each of its officers, directors, employees, consultants, agents, attorneys, accountants and affiliates and each person that controls (within the meaning of Section 20 of the Exchange Act) any of the foregoing persons (each a "Fletcher Indemnified Party") against any claim, demand, action, liability, damages, loss, cost or expense (including, without limitation, reasonable legal fees and expenses incurred by such Fletcher Indemnified Party in investigating or defending any such proceeding) (all of the foregoing, including associated costs and expenses being referred to herein as a "Proceeding"), that it may incur in connection with any of the transactions contemplated hereby arising out of or based upon:

(i) any untrue or alleged untrue statement of a material fact in a SEC Filing by Cal Dive or any of its affiliates or any person acting on its or their behalf or omission or alleged omission to state therein any material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading by Cal Dive or any of its affiliates or any person acting on its or their behalf;

(ii) any of the representations or warranties made by Cal Dive herein being untrue or incorrect at the time such representation or warranty was made; and

(iii) any breach or non-performance by Cal Dive of any of its covenants, agreements or obligations under this Agreement, the Certificate of Rights and Preferences and the Subsequent Certificates of Rights and Preferences;

provided, however, that the foregoing indemnity shall not apply to any Proceeding to the extent that it arises out of, or is based upon, the gross negligence or willful misconduct of Fletcher in connection therewith.

(b) Indemnification of Cal Dive. Fletcher hereby agrees to indemnify Cal Dive and each of its officers, directors, employees, consultants, agents, attorneys, accountants and affiliates and each person that controls (within the meaning of Section 20 of the Exchange Act) any of the foregoing persons against any Proceeding, that it may incur in connection with any of the transactions contemplated hereby arising out of or based upon:

(i) any untrue or alleged untrue statement of a material fact included in an SEC filing by Cal Dive with the express written consent of Fletcher therefor by Fletcher or any of its affiliates or any person acting on its or their

behalf or omission or alleged omission to state any such material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading by Fletcher or any of its affiliates or any person acting on its or their behalf;

(ii) any of the representations or warranties made by Fletcher herein being untrue or incorrect at the time such representation or warranty was made; and

(iii) any breach or non-performance by Fletcher of any of its covenants, agreements or obligations under this Agreement;

provided, however, that the foregoing indemnity shall not apply to any Proceeding to the extent that it arises out of, or is based upon, the gross negligence or willful misconduct of Cal Dive in connection therewith.

(c) Conduct of Claims.

(i) Whenever a claim for indemnification shall arise under this Section 17, the party seeking indemnification (the "Indemnified Party"), shall notify the party from whom such indemnification is sought (the "Indemnifying Party") in writing of the Proceeding and the facts constituting the basis for such claim in reasonable detail;

(ii) Such Indemnifying Party shall have the right to retain the counsel of its choice in connection with such Proceeding and to participate at its own expense in the defense of any such Proceeding; provided, however, that counsel to the Indemnifying Party shall not (except with the consent of the relevant Indemnified Party) also be counsel to such Indemnified Party. In no event shall the Indemnifying Party be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iii) No Indemnifying Party shall, without the prior written consent of the Indemnified Parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification could be sought under this Section 17 unless such settlement, compromise or consent (A) includes an unconditional release of each Indemnified Party from all liability arising out of such litigation, investigation, proceeding or claim and (B) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

18. Survival of the Representations, Warranties, etc. The respective representations, warranties, and agreements made herein by or on behalf of the parties hereto shall remain in full force and effect, regardless of any investigation made by or on behalf of the other party to this Agreement or any officer, director or employee of, or person controlling or under common control with, such party and will survive delivery of and payment for any Investment Securities issuable hereunder.

19. Notices. All communications hereunder shall be in writing and delivered as set forth below.

(a) If sent to Fletcher, all communications will be deemed delivered: if delivered by hand, on the day received by Fletcher; if sent by reputable overnight courier, on the next Business Day; and if transmitted by facsimile to Fletcher, on the date transmitted (provided such facsimile is later confirmed), in each case to the following address (unless otherwise notified in writing of a substitute address):

Fletcher International, Ltd.  
c/o A. S. & K. Services Ltd.  
Cedar House, 41 Cedar Avenue  
Hamilton HM EX  
Bermuda  
Attention: Felicity Holmes, Corporate Administrator  
Telephone: 441-295-2244  
Facsimile: 441-292-8666

with a copy to:

Fletcher Asset Management, Inc.  
22 East 67th Street  
New York, NY 10021  
Attention: Peter Zayfert  
Telephone: (212) 284-4800  
Facsimile: (212) 284-4801

with a copy to (which copy shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
Attention: Stephen W. Hamilton, Esq.  
Telephone: (202) 371-7010  
Facsimile: (202) 393-5760

(b) If sent to Cal Dive, all communications will be deemed delivered: if delivered by hand, on the day received by Cal Dive; if sent by reputable overnight

courier, on the next Business Day; and if transmitted by facsimile to Cal Dive, on the date transmitted (provided such facsimile is later confirmed), in each case to the following address (unless otherwise notified in writing of a substitute address):

Cal Dive International, Inc.  
400 N. Sam Houston Parkway E., Suite 400  
Houston, Texas 77060  
Attention: A. Wade Pursell  
Telephone: (281) 618-0431  
Facsimile: (281) 618-0505

with a copy to:

Cal Dive International, Inc.  
400 N. Sam Houston Parkway E., Suite 400  
Houston, Texas 77060  
Attention: James Lewis Connor, III, Esq.  
Telephone: (281) 618-0538  
Facsimile: (281) 618-0505

with a copy to (which copy shall not constitute notice):

Fulbright & Jaworski L.L.P.  
1301 McKinney Street, Suite 5100  
Houston, Texas 77010  
Attention: Arthur H. Rogers, Esq.  
Telephone: (713) 651-5421  
Facsimile: (713) 651-5246

To the extent that any funds shall be delivered to Cal Dive by wire transfer, unless otherwise instructed by Cal Dive, such funds should be delivered in accordance with the wire instructions set forth in Annex BB.

## 20. Miscellaneous.

(a) The parties may execute and deliver this Agreement as a single document or in any number of counterparts, manually, by facsimile or by other electronic means, including contemporaneous xerographic or electronic reproduction by each party's respective attorneys. Each counterpart shall be an original, but a single document or all counterparts together shall constitute one instrument that shall be the agreement.

(b) This Agreement will inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns and, with respect to Section 17 hereof, will inure to the benefit of their respective officers, directors, employees, consultants, agents, attorneys, accountants and affiliates and each person that controls (within the meaning of Section 20 of the Exchange Act) any of the foregoing persons,



and no other person will have any right or obligation hereunder. Cal Dive may not assign this Agreement. Notwithstanding anything to the contrary in this Agreement, Fletcher may assign, pledge, hypothecate or transfer any of the rights and associated obligations contemplated by this Agreement (including, but not limited to, the Investment Securities), in whole or in part, at its sole discretion (including, but not limited to, assignments, pledges, hypothecations and transfers in connection with financing, derivative or hedging transactions with respect to this Agreement and the Investment Securities), provided, that, any such assignment, pledge, hypothecation or transfer must comply with applicable federal and state securities laws. No person acquiring Common Stock from Fletcher pursuant to a public market purchase will thereby obtain any of the rights contained in this Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties hereto with respect to the subject matter of this Agreement. Except as provided in this Section 18(b), this Agreement is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

(c) This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York, and each of the parties hereto hereby submits to the non-exclusive jurisdiction of any state or federal court in the Southern District of New York and any court hearing any appeal therefrom, over any suit, action or proceeding against it arising out of or based upon this Agreement (a "Related Proceeding"). Each of the parties hereto hereby waives any objection to any Related Proceeding in such courts whether on the grounds of venue, residence or domicile or on the ground that the Related Proceeding has been brought in an inconvenient forum.

(d) Each party represents and acknowledges that, in the negotiation and drafting of this Agreement and the other instruments and documents required or contemplated hereby, it has been represented by and relied upon the advice of counsel of its choice. Each party hereby affirms that its counsel has had a substantial role in the drafting and negotiation of this Agreement and such other instruments and documents. Therefore, each party agrees that no rule of construction to the effect that any ambiguities are to be resolved against the drafter shall be employed in the interpretation of this Agreement and such other instruments and documents.

(e) Without prejudice to other rights or remedies hereunder (including any specified interest rate), and except as otherwise expressly set forth herein, interest shall be due on any amount that is due pursuant to this Agreement and has not been paid when due, calculated for the period from and including the due date to but excluding the date on which such amount is paid at the prime rate of U.S. money center banks as published in The Wall Street Journal (or if The Wall Street Journal does not exist or publish such information, then the average of the prime rates of three U.S. money center banks agreed to by the parties) plus two percent (2%).

(f) Fletcher and Cal Dive stipulate that the remedies at law of the parties hereto in the event of any default or threatened default by either party in the performance of or compliance with any of the terms of this Agreement, the Certificate of Rights and Preferences and the Subsequent Certificates of Rights and Preferences are not

and will not be adequate and that, to the fullest extent permitted by law, such terms may be specifically enforced by a decree for the specific performance of any agreement contained herein or by an injunction against a violation of any of the terms hereof or otherwise.

(g) Any and all remedies set forth in this Agreement, the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences: (i) shall be in addition to any and all other remedies Fletcher or Cal Dive may have at law or in equity, (ii) shall be cumulative, and (iii) may be pursued successively or concurrently as each of Fletcher and Cal Dive may elect. The exercise of any remedy by Fletcher or Cal Dive shall not be deemed an election of remedies or preclude Fletcher or Cal Dive, respectively, from exercising any other remedies in the future.

(h) Cal Dive agrees that the parties have negotiated in good faith and at arms' length concerning the transactions contemplated herein, and that Fletcher would not have agreed to the terms of this Agreement without each and every of the terms, conditions, protections and remedies provided herein and the Certificate of Rights and Preferences. Except as specifically provided otherwise in this Agreement, the Certificate of Rights and Preferences and the Subsequent Certificates of Rights and Preferences, Cal Dive's obligations to indemnify and hold Fletcher harmless in accordance with Section 18 of this Agreement are obligations of Cal Dive that Cal Dive promises to pay to Fletcher when and if they become due. Cal Dive shall record any such obligations on its books and records in accordance with U.S. generally accepted accounting principles.

(i) This Agreement may be amended, modified or supplemented in any and all respects, but only by a written instrument signed by Fletcher and Cal Dive expressly stating that such instrument is intended to amend, modify or supplement this Agreement.

(j) Each of the parties will cooperate with the others and use its best efforts to prepare all necessary documentation, to effect all necessary filings, and to obtain all necessary permits, consents, approvals and authorizations of all governmental bodies and other third-parties necessary to consummate the transactions contemplated by this Agreement.

(k) For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires: (i) the terms defined in this Agreement have the meanings assigned to them in this Agreement and include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other gender and neuter gender of such term; (ii) accounting terms not otherwise defined herein have the meanings assigned to them in accordance with U.S. generally accepted accounting principles; (iii) references herein to "Articles", "Sections", "Subsections", "Paragraphs" and other subdivisions without reference to a document are to designated Articles, Sections, Subsections, Paragraphs and other subdivisions of this Agreement, unless the context shall otherwise require; (iv) a reference to a Subsection without further reference to a Section is a reference to such Subsection as contained in the same Section in which the reference appears, and this rule shall also apply to Paragraphs and other subdivisions;

(v) the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular provision; (vi) the term "include" or "including" shall mean without limitation; (vii) the table of contents to this Agreement and all section titles or captions contained in this Agreement or in any Schedule or Annex hereto or referred to herein are for convenience only and shall not be deemed a part of this Agreement and shall not affect the meaning or interpretation of this Agreement; (viii) any agreement, instrument or statute defined or referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein; and (ix) references to a person are also to its permitted successors and assigns and, in the case of an individual, to his or her heirs and estate, as applicable.

(l) If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. If the final judgment of a court of competent jurisdiction or other authority declares that any term or provision hereof is invalid, void or unenforceable, the parties agree that the court making such determination shall have the power to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases, or to replace any invalid, void or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(m) Time shall be of the essence in this Agreement.

(n) All dollar (\$) amounts set forth herein, in the Certificate of Rights and Preferences and Subsequent Certificates of Rights and Preferences refer to United States dollars. All payments hereunder and thereunder will be made in lawful currency of the United States of America.

(o) Notwithstanding anything herein to the contrary, all measurements and references related to share prices and share numbers herein will be, in each instance, appropriately adjusted for stock splits, recombinations, stock dividends and the like.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this First Amended and Restated Agreement, all as of January 17, 2003.

CAL DIVE INTERNATIONAL, INC.

By: /s/ JAMES LEWIS CONNOR, III  
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Name: James Lewis Connor, III  
Title: Senior Vice President & General Counsel

FLETCHER INTERNATIONAL, LTD., by its duly authorized investment advisor,  
FLETCHER ASSET MANAGEMENT, INC.

By: /s/ DENIS J. KIELY  
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Name: Denis J. Kiely  
Title: Deputy CEO and Counsel

By: /s/ JONATHAN B. SCHINDEL  
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Name: Jonathan B. Schindel  
Title: COO and Counsel