

G73095

Rogers, Thomas Et Al - Mary Rose

Requestor's Name

106 S. Monroe Street

Address

Tallahassee, FL 32301 222-7200

City/State/Zip

Phone #

Office Use Only

FILED
00 OCT -5 PM 1:20
TALLAHASSEE, FLORIDA
SECRETARY OF STATE

CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

1. Florida East Coast Industries, Inc.
(Corporation Name) (Document #)

2. # G 73095
(Corporation Name) (Document #)

3. EFFECTIVE DATE 10/9/00 Merger
(Corporation Name) (Document #)

4. _____
(Corporation Name) (Document #)

☒ Walk in

☐ Mail out

☒ Pick up time

☐ Will wait

10:5:00

☐ Photocopy

☒ Certified Copy (3)

☐ Certificate of Status

| NEW FILINGS | |
|--------------------------|-------------------|
| <input type="checkbox"/> | Profit |
| <input type="checkbox"/> | NonProfit |
| <input type="checkbox"/> | Limited Liability |
| <input type="checkbox"/> | Domestication |
| <input type="checkbox"/> | Other |

| AMENDMENTS | |
|-------------------------------------|--|
| <input type="checkbox"/> | Amendment |
| <input type="checkbox"/> | Resignation of R.A., Officer/ Director |
| <input type="checkbox"/> | Change of Registered Agent |
| <input type="checkbox"/> | Dissolution/Withdrawal |
| <input checked="" type="checkbox"/> | Merger |

| OTHER FILINGS | |
|--------------------------|------------------|
| <input type="checkbox"/> | Annual Report |
| <input type="checkbox"/> | Fictitious Name |
| <input type="checkbox"/> | Name Reservation |

| REGISTRATION/ QUALIFICATION | |
|-----------------------------|---------------------|
| <input type="checkbox"/> | Foreign |
| <input type="checkbox"/> | Limited Partnership |
| <input type="checkbox"/> | Reinstatement |
| <input type="checkbox"/> | Trademark |
| <input type="checkbox"/> | Other |

5 filed, stamped
copies

Thank you

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***156.25 ***156.25

ARTICLES OF MERGER
Merger Sheet

MERGING:

ST. JOE MERGER SUB COMPANY, a Florida corporation P00000077946

INTO

FLORIDA EAST COAST INDUSTRIES, INC., a Florida entity, G73095

File date: October 5, 2000 , Effective October 9, 2000

Corporate Specialist: Annette Ramsey

EFFECTIVE DATE
10/9/00

Articles of Merger of
St. Joe Merger Sub Company, a Florida corporation
("Merging Corporation"),
with and into
Florida East Coast Industries, Inc., a Florida corporation
("Surviving Corporation")

FILED
00 OCT -5 PM 1:20
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Sections 607.1101 and 607.1105 of the Florida Business Corporation Act, the undersigned corporations adopt and the Surviving Corporation delivers for filing the following Articles of Merger for the purpose of merging them into one of such corporations:

First: The plan of merger attached hereto as Exhibit A (the "Plan of Merger") was approved by the shareholders of each of the undersigned corporations in the manner prescribed by the Florida Business Corporation Act:

Second: The Surviving Corporation is Florida East Coast Industries, Inc., the corporate name of which will remain the same.

Third: The Effective Date of the merger described herein shall be October 9, 2000, or, if later, the date on which these Articles of Merger are filed with the Florida Department of State.

Fourth: The Shareholders of each of Merging Corporation and Surviving Corporation adopted the Plan of Merger on October 2, 2000 and March 8, 2000, respectively.

Dated: October 3, 2000.

FLORIDA EAST COAST INDUSTRIES, INC.

By: 
Robert W. Anestis, President

ST. JOE MERGER SUB COMPANY

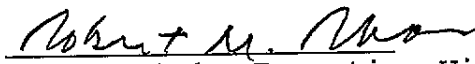
By: 
Robert M. Rhodes, Executive Vice
President and General Counsel

EXHIBIT A

THIS PLAN OF MERGER ("Plan of Merger"), between FLORIDA EAST COAST INDUSTRIES, INC. ("FEC", and after the Merger (as defined below), the "Surviving Corporation"), a Florida corporation, and ST. JOE MERGER SUB COMPANY ("Merger Sub"), a Florida corporation, has been approved, and is hereby filed and made effective pursuant to and as contemplated by that certain Distribution Agreement entered into between FEC and The St. Joe Company ("St. Joe") dated as of October 26, 1999 (the "Distribution Agreement"). The Merger (defined below) is intended to constitute a reorganization within the meaning of Section 368(a)(1)(E) of the Internal Revenue Code of 1986, as amended.

ARTICLE I

THE MERGER

SECTION 1.1 The Merger. (a) Effective October 9, 2000, or, if later, upon the filing with the Department of State of the State of Florida (the "Effective Time") of this Plan of Merger, Merger Sub shall be merged with and into FEC (the "Merger") in accordance with the Florida Business Corporation Act of the State of Florida (the "FBCA"), whereupon the separate corporate existence of Merger Sub shall cease, and FEC shall be the surviving corporation (the "Surviving Corporation").

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

SECTION 1.2 Effect on Capital Stock. At the Effective Time:

(a) All of the shares of common stock, no par value per share, of Merger Sub outstanding immediately prior to the Effective Time ("Merger Sub Common Stock"), shall be converted in the aggregate into and become 19,609,216 fully paid and non-assessable shares of a new Class B Common Stock, no par value per share ("Class B Common Stock") of the Surviving Corporation, and shall have the rights and privileges as set forth in the Surviving Corporation Articles of Incorporation, as amended and restated hereby;

(b) each of the shares of common stock, no par value per share of FEC ("Common Stock") held by Merger Sub as of the Effective Time (the shares so held, "Contributed Shares") shall automatically be canceled and retired and shall cease to exist, and no stock of the Surviving Corporation or other consideration shall be delivered in exchange therefor;

(c) each share of Common Stock (other than the shares to be canceled in accordance with Section 1.2(b)) shall be converted, without any action on the part of holders thereof, into one share of a new Class A Common Stock, no par value per share ("Class A Common Stock"),

shall remain issued and outstanding and shall have the rights and privileges as set forth in the Surviving Corporation Articles of Incorporation, as amended and restated hereby; and

(d) each share of Common Stock that is held in the treasury of FEC shall remain in the treasury of FEC and not be affected by the Merger, except that each share of Common Stock held in the treasury of FEC at the Effective Time shall be converted into one share of new Class A Common Stock and shall have the rights and privileges as set forth in the Surviving Corporation Articles of Incorporation, as amended hereby.

SECTION 1.3 Share Certificates. (a) As soon as practicable after the Effective Time,

(i) the Surviving Corporation shall deliver, or cause to be delivered, to St. Joe, as holder of all outstanding Merger Sub Common Stock prior to the Effective Time, a number of certificates issued in the names of such persons, in each case, as St. Joe shall direct, representing in the aggregate 19,609,216 shares of Class B Common Stock which St. Joe has the right to receive upon conversion of shares of Merger Sub Common Stock pursuant to the provisions of Section 1.2(a) hereof;

(ii) the Surviving Corporation shall cancel the share certificate or certificates representing the shares of Common Stock owned directly by Merger Sub; and

(iii) the share certificates representing shares of Common Stock which are to be converted into shares of new Class A Common Stock and remain issued and outstanding under Section 1.2(c) hereof or that remain treasury shares under Section 1.2(d) hereof, shall represent new Class A Common Stock but such certificates shall not be exchanged for certificates specifically referring to the new Class A Common Stock and shall represent an equal number of shares of new Class A Common Stock of the Surviving Corporation without physical substitution of share certificates of the Surviving Corporation for such existing share certificates of FEC.

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

ARTICLE II

ORGANIZATIONAL DOCUMENTS OF THE SURVIVING CORPORATION

SECTION 2.1 Articles of Incorporation. At the Effective Time, the Articles of Incorporation of FEC as in effect immediately prior to the Effective Time shall be amended and restated in their entirety as set forth in Exhibit A-1 hereto (the "Surviving Corporation Articles of Incorporation").

SECTION 2.2 By-laws. The By-laws of FEC as in effect immediately prior to the Effective Time shall be amended and restated in their entirety as set forth in Exhibit A-2 hereto (the "Surviving Corporation By-laws").

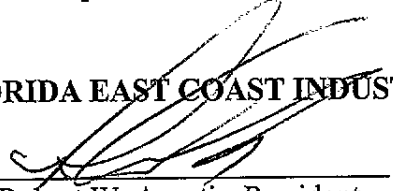
SECTION 2.3 Directors and Officers. From and after the Effective Time, until the earlier of their removal or resignation or until their successors are duly appointed and qualified in accordance with applicable law and the Surviving Corporation By-laws, the directors of FEC shall be the directors of the Surviving Corporation. From and after the Effective Time, until the earlier of their removal or resignation or until their successors are duly appointed and qualified in accordance with applicable law and the Surviving Corporation By-laws, the officers of FEC shall be the officers of the Surviving Corporation.

ARTICLE IV

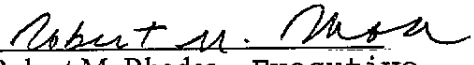
RIGHTS OF PARTIES WITH RESPECT TO THE MERGER

SECTION 4.1 Rights of Parties with Respect to the Merger. All rights and obligations as between any of St. Joe, FEC and Merger Sub with respect to the Merger, are set forth in the Distribution Agreement.

FLORIDA EAST COAST INDUSTRIES, INC.

By: 
Robert W. Anestis, President

ST. JOE MERGER SUB COMPANY

By: 
Robert M. Rhodes, Executive
Vice President and General Counsel

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
FLORIDA EAST COAST INDUSTRIES, INC.**

Pursuant to Sections 607.1003 and 607.1007 of the Florida Business Corporation Act, **FLORIDA EAST COAST INDUSTRIES, INC.** (the "Corporation") hereby adopts the following Amended and Restated Articles of Incorporation:

ARTICLE I.

NAME AND ADDRESS

The name of the Corporation is **FLORIDA EAST COAST INDUSTRIES, INC.** The Corporation's principal office and mailing address is One Malaga Street, St. Augustine, Florida 32084.

ARTICLE II.

PURPOSE

The Corporation is organized for the purpose of transacting any and all lawful business for corporations organized under the Florida Business Corporation Act (the "FBCA").

ARTICLE III.

TERM

The duration of the Corporation shall be perpetual.

ARTICLE IV.

REGISTERED OFFICE

The street address of the Corporation's registered office and the name of the registered agent at such office are:

Heidi J. Eddins, Esq.
One Malaga Street
St. Augustine, Florida 32084

ARTICLE V.

BOARD OF DIRECTORS

The Board of Directors shall consist of five (5) or more members, *provided* that at all times the Board of Directors shall consist of a whole number multiple of five (5) members (subject to vacancies occurring in the ordinary course, which vacancies shall be filled no later than the next annual meeting of the shareholders of the Corporation).

ARTICLE VI.

CAPITAL STOCK

1. Authorized Stock. The aggregate number of shares of all classes of stock which the Corporation shall have authority to issue is one hundred seventy million (170,000,000) shares, consisting of:

(a) fifty million (50,000,000) shares of Class A Common Stock, no par value (the "Class A Common Stock");

(b) one hundred million (100,000,000) shares of Class B Common Stock, no par value (the "Class B Common Stock"); and

(c) twenty million (20,000,000) shares of Preferred Stock, no par value (the "Preferred Stock").

2. Common Stock. Except as otherwise expressly provided herein, the Class A Common Stock and the Class B Common Stock shall be identical in all respects, and the relative powers, preferences, rights, qualifications, limitations and restrictions of the shares of Class A Common Stock and Class B Common Stock shall be as follows:

(a) Cash or Property Distributions. Subject to the rights and preferences of the Preferred Stock as set forth in any resolution or resolutions of the Corporation's Board of Directors (the "Board of Directors"), providing for the issuance of such stock pursuant to this Article VI, and except as otherwise provided for herein, the holders of Class A Common Stock and Class B Common Stock are entitled to receive dividends out of assets legally available therefor at such times and in such per share amounts as the Board of Directors may from time to time determine, *provided* that whenever a dividend is paid, the same dividend shall be paid in respect of each outstanding share of Class A Common Stock and Class B Common Stock.

(b) Stock Subdivisions and Combinations. The Corporation shall not subdivide, reclassify or combine either Class A Common Stock or Class B Common Stock without at the same time making a proportionate subdivision, reclassification or combination of the other class.

(c) Voting. Voting power shall be divided between the Class A Common Stock and the Class B Common Stock as follows:

(i) With respect only to the election of directors, holders of Class A Common Stock and holders of Voting Preferred Stock (as defined below), voting together, shall be entitled to elect that number of directors which constitutes 20% of the authorized number of members of the Board of Directors (or, if such 20% is not a whole number, then the nearest lower whole number of directors that is closest to 20% of such membership) (the “Class A Directors”). Each share of Class A Common Stock shall have one vote for each nominee in the election of the Class A Directors and each share of Voting Preferred Stock shall have a number of votes in the election of the Class A Directors as specified in the resolution or resolutions of the Board of Directors authorizing such Voting Preferred Stock. Holders of Class B Common Stock shall be entitled to elect the remaining directors (the “Class B Directors”). Each share of Class B Common Stock shall have one vote for each nominee in the election of such directors. Holders of Class A Common Stock, Class B Common Stock and Voting Preferred Stock shall be entitled to cumulate their votes for directors. For purposes of this Section (2)(c) and Section (2)(d) of this Article VI, references to the authorized number of members of the Board of Directors (or the remaining directors) shall not include any directors which the holders of any shares of Preferred Stock may have the right to elect upon the failure of the Corporation to pay regular dividends on such Preferred Stock as and when due for a specified period of time. “Voting Preferred Stock” means shares of each series of Preferred Stock upon which the right to vote for directors has been conferred in accordance with Section (3) of this Article VI, except for any right to elect directors which may be provided upon the failure of the Corporation to pay regular dividends on such Preferred Stock as and when due for a specified period of time.

(ii) At a meeting of shareholders, a Class A Director of the Board of Directors may be removed only for cause by the affirmative vote of the holders of at least a majority of the total voting power of all shares of the Class A Common Stock and the holders of Voting Preferred Stock, voting together as a class, *provided* the notice of the meeting states that the purpose, or one of the purposes, of the meeting is removal of the Class A Director. A Class A Director may not be removed if the number of votes sufficient to elect the Class A Director by the holders of Class A Common Stock under cumulative voting is voted against his or her removal. At a meeting of shareholders, a Class B Director may be removed only for cause by the affirmative vote of the holders of at least a majority of the total voting power of all shares of Class B Common Stock *provided* the notice of the meeting states that the purpose, or one of the purposes, of the meeting is removal of the Class B Director. A Class B Director may not be removed if the number of votes sufficient to elect the Class B Director by the holders of Class B Common Stock under cumulative voting is voted against his or her removal.

(iii) (A) Notwithstanding any other provision of these Amended and Restated Articles of Incorporation, with respect to the election or removal of directors of the Corporation, if any person or entity or group of persons or entities acting in concert (any such person, entity or group, a “Significant Holder”) beneficially owns 15% or more of the outstanding shares of Class B Common Stock, such Significant Holder shall be entitled to vote any shares of Class B Common Stock beneficially owned by such Significant Holder only as follows:

(1) Any shares of Class B Common Stock up to the number of such Significant Holder’s Applicable Shares (as defined below) may be voted by such Significant Holder in its sole discretion.

(2) Any shares of Class B Common Stock in excess of the number of such Significant Holder's Applicable Shares ("Excess Shares") may be voted by such Significant Holder only in accordance with the votes of all other shares of Class B Common Stock by other holders (or, with respect to other holders who are Significant Holders, in accordance only with the votes of Applicable Shares of such Significant Holders) on a *pro rata* basis for each director candidate.

(B) A Significant Holder's "Applicable Shares" shall be such number of shares of Class B Common Stock equal to (i) such Significant Holder's Economic Interest (as defined below), (ii) *divided* by 0.80 and (iii) *multiplied* by the total number of outstanding shares of Class B Common Stock rounded to the nearest whole number.

(C) A Significant Holder's "Economic Interest" shall be equal to (i) the number of shares of Class B Common Stock of the Corporation beneficially owned by such Significant Holder, (ii) *divided* by the total number of shares outstanding of all classes of capital stock of the Corporation immediately upon consummation of the Distribution (as defined in the Distribution Agreement).

(D) Nothing contained in this Section 2(c)(ii) shall require any shareholder to vote, or limit any shareholder's right not to vote, any shares of Class B Common Stock, *provided* that if any Significant Holder votes less than all of the shares of Class B Common Stock beneficially owned by such Significant Holder, a portion of such voted shares shall be treated as having been voted as Applicable Shares and a portion of such voted shares shall be treated as having been voted as Excess Shares *pro rata* with the total number of such Principal Holder's Applicable Shares to Excess Shares.

(iv) Except as otherwise specifically provided herein, the holders of Class A Common Stock and holders of Class B Common Stock (x) shall in all matters not otherwise specified in Section (2)(c) of this Article VI vote together (including, without limitation, with respect to increases or decreases in the authorized number of shares of any class of Common Stock), with each share of Class A Common Stock and Class B Common Stock having one vote and (y) shall be entitled to vote as separate classes only when required by law to do so under mandatory statutory provisions that may not be excluded or overridden by a provision in these Amended and Restated Articles of Incorporation.

(v) Except as set forth in this Section (2)(c) of Article VI, the holders of Class A Common Stock shall have exclusive voting power (except for any voting powers of any Preferred Stock) on all matters at any time when no Class B Common Stock is issued and outstanding, and the holders of Class B Common Stock shall have exclusive voting power (except for any voting powers of any Preferred Stock) on all matters at any time when no Class A Common Stock is issued and outstanding.

(d) Shareholder Vote for Certain Recapitalization. The Corporation may, upon the affirmative vote of at least a majority of the voting power of all shares of the Corporation's capital stock then entitled to vote, voting together as a single class, effect a Recapitalization (a "Recapitalization") of the Corporation pursuant to which all shares of Class A Common Stock and Class B Common Stock will be re-designated as a single class of

Common Stock. All such shares of newly designated Common Stock shall be identical in all respects, including with respect to the election or removal of directors. Upon any such Recapitalization, each share of old Class A Common Stock and old Class B Common Stock shall remain issued and outstanding as Common Stock and share certificates evidencing such old shares of Class A Common Stock or old shares of Class B Common Stock shall automatically be deemed to evidence an equal number of shares of newly designated Common Stock (unless and until such share certificates are exchanged for new share certificates).

(e) Vacancies; Increase or Decreases in Size of the Board of Directors. Any vacancy in the office of a director created by the death, resignation or removal of a director elected by (or appointed on behalf of) the holders of the Class B Common Stock or the holders of the Class A Common Stock and Voting Preferred Stock voting together as a class, as the case may be, may be filled by the vote of the majority of the directors (or the sole remaining director) elected by (or appointed on behalf of) such holders of Class B Common Stock or Class A Common Stock and Voting Preferred Stock (or on behalf of whom that director was appointed), as the case may be, unless there are no such directors, in which case such vacancy may be filled by the vote of the majority of the directors or by the sole remaining director, regardless, in each instance, of any quorum requirements set out in the Corporation's bylaws. Any director elected by some or all of the directors to fill a vacancy shall hold office for the remainder of the full term of the director whose vacancy is being filled and until such director's successor shall have been elected and qualified unless removed and replaced pursuant to Section 2(c)(iii). All newly-created directorships or vacancies resulting from an increase or decrease in the authorized number of directors shall be allocated between Class A Directors and Class B Directors such that at all times the number of directorships reserved for Class A Directors shall be 20% of the authorized number of members of the Board of Directors (or, if such 20% is not a whole number, then the nearest lower whole number of directors that is closest to 20% of such membership) and the remaining directorships are reserved for Class B Directors. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(f) Shareholder Nominations of Director Candidates. Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation. Nominations of persons for election to the Board of Directors at an annual or special meeting of shareholders may be made by or at the direction of the Board of Directors by any nominating committee or person appointed by the Board of Directors or by any shareholder of the Corporation entitled to vote for the election of directors at such meeting who complies with the procedures set forth in this Section 2(f) of Article VI, *provided* that nominations of persons for election to the Board of Directors at a special meeting may be made only if the election of directors is one of the purposes described in the special meeting notice required by Section 607.0705 of the FBCA. Nominations of persons for election at a special meeting, other than nominations made by or at the direction of the Board of Directors, shall be made pursuant to notice in writing delivered to or mailed and received by the Secretary of the Corporation at its principal executive offices not later than the close of business on the tenth (10th) day following the date on which notice of such meeting is given to shareholders or made public, whichever occurs first. Nominations of persons for election at an annual meeting, other than nominations made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a shareholder's notice

must be delivered to or mailed and received by the Secretary of the Corporation at the principal executive offices of the Corporation not less than sixty (60) days nor more than 180 days prior to the first anniversary of the date of the Corporation's notice of annual meeting provided with respect to the previous year's annual meeting, *provided* that if no annual meeting was held in the previous year or the date of the annual meeting has been changed to be more than thirty (30) calendar days earlier than the date contemplated by the previous year's notice of annual meeting, such notice by the shareholder to be timely must be so delivered or received not later than the close of business on the fifth day following the date on which notice of the date of the annual meeting is given to shareholder or made public, whichever first occurs. Such shareholder's notice to the Secretary shall set forth the following information: (a) as to each person whom the shareholder proposed to nominate for election or re-election as a director at the annual or special meeting, (i) the name, age, business address and residence address of the proposed nominee, (ii) the principal occupation or employment of the proposed nominee, (iii) the class and number of shares of capital stock of the Corporation which are beneficially owned by the proposed nominee and (iv) any other information relating to the proposed nominee that is required to be disclosed in solicitations for proxies for election of directors pursuant to Regulation 14a promulgated under the Securities Exchange Act of 1934, as amended; and (b) as to the shareholder giving the notice of nominees for election at the annual or special meeting, (i) the name and record address of the shareholder and (ii) the class and number of shares of capital stock of the Corporation which are beneficially owned by the shareholder. The Corporation may require any proposed nominee for election at an annual or special meeting of shareholders to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation. No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth herein. The Chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the requirements of this Section 2(f), and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

(g) Merger or Consolidation. In case of any consolidation of the Corporation with one or more other corporations or a merger of the Corporation with another corporation, each holder of a share of Class A Common Stock shall be entitled to receive with respect to such share the same kind and amount of shares of stock and other securities and property (including cash) receivable upon such consolidation or merger by a holder of a share of Class B Common Stock, and each holder of a share of Class B Common Stock shall be entitled to receive with respect to such share the same kind and amount of shares of stock and other securities and property (including cash) receivable upon such consolidation or merger by a holder of a share of Class A Common Stock, *provided* that, in any such transaction, the holders of shares of Class A Common Stock and the holders of shares of Class B Common Stock may receive different kinds of shares of stock if the only difference in such shares is the inclusion of voting rights which continue the Special Voting Rights (as defined herein). For purposes hereof, "Special Voting Rights" means the different voting rights of the holders of Class A Common Stock, holders of Class B Common Stock and holders of Voting Preferred Stock with respect to the election of the applicable percentage of the authorized number of members of the Board of Directors as described in Section (2)(c)(i) of Article VI.

(h) Liquidation. In the event of any liquidation, dissolution or winding up of the Corporation, the holders of the Class A Common Stock and Class B Common Stock shall participate equally per share in any distribution to shareholders, without distinction between classes.

(i) Internal Revenue Service Ruling. Section 2(d) of Article VI shall be effective only following the receipt of a private letter ruling from the Internal Revenue Service to the effect that the terms of such Section 2(d) will not have any adverse effect on the tax-free nature of the Distribution pursuant to Section 355 of the Internal Revenue Code of 1986, as amended.

3. Preferred Stock. Any Preferred Stock not previously designated as to series may be issued from time to time in one or more series pursuant to a resolution or resolutions providing for such issue duly adopted by the Board of Directors (authority to do so being hereby expressly vested in the Board of Directors), and such resolution or resolutions shall also set forth the voting powers, full or limited or none, of each such series of Preferred Stock and shall fix the designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions of each such series of Preferred Stock. The Board of Directors is authorized to alter the designation, rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock and, within the limits and restrictions stated in any resolution or resolutions of the Board of Directors originally fixing the number of shares constituting any series of Preferred Stock, to increase or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series. Each share of Preferred Stock issued by the Corporation, if reacquired by the Corporation (whether by redemption, repurchase, conversion to Common Stock or other means), shall upon such reacquisition resume the status of authorized and unissued shares of Preferred Stock, undesignated as to series and available for designation and issuance by the Corporation in accordance with the immediately preceding paragraph.

ARTICLE VII.

BYLAWS

In furtherance of and not in limitation of the powers conferred by applicable law, the Board of Directors is expressly authorized to amend or repeal the bylaws of the Corporation or adopt new bylaws of the Corporation by the affirmative vote of at least two-thirds of the entire Board of Directors. In addition to the right of the Board of Directors to amend or repeal the bylaws of the Corporation and in furtherance and not in limitation of the powers conferred by applicable law, the Corporation's shareholders may amend or repeal the bylaws or adopt new bylaws by the affirmative vote of at least two-thirds of the voting power of all shares of the Corporation's capital stock entitled to vote voting together as a single class.

ARTICLE VIII.

SHAREHOLDERS' MEETINGS

1. Call of Special Shareholders Meeting. Except as otherwise required by law, the Corporation shall not be required to hold a special meeting of shareholders of the Corporation unless (in addition to any other requirements of law): (a) the meeting is called by the Board of Directors pursuant to a resolution approved by a majority of the entire Board of Directors; (b) the meeting is called by the Chairman of the Board of Directors or (c) the meeting is called by the holders of not less than 30% of all votes entitled to be cast on any issue proposed to be considered at the proposed special meeting (taking into account the provision of Article VI(2)(c) in the case of a special meeting for the election or removal of directors) by a writing signed, dated and delivered to the Corporation's Secretary containing one or more demands for the meeting and particularly describing the purpose or purposes for which it is to be held. Only business within the purpose or purposes described in the special meeting notice required by section 607.0705 of the FBCA may be conducted at a special shareholders' meeting.

2. Advance Notice of Shareholder-Proposed Business for Annual Meeting. At an annual meeting of the shareholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, or (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) otherwise properly brought before the meeting by a shareholder. In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a shareholder, the shareholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a shareholder's notice must be delivered to or mailed and received by the Secretary of the Corporation at the principal executive offices of the Corporation, not less than sixty (60) days nor more than one hundred eighty (180) days prior to the first anniversary of the date of the Corporation's notice of annual meeting provided with respect to the previous year's annual meeting, *provided* that if no annual meeting was held in the previous year or the date of the annual meeting has been changed to be more than thirty (30) calendar days earlier than the date contemplated by the previous year's notice of annual meeting, such notice by the shareholder to be timely must be so delivered or received not later than the close of business on the tenth (10th) day following the date on which notice of the date of the annual meeting is given to shareholders or made public, whichever first occurs. Such shareholder's notice to the Secretary shall set forth as to each matter the shareholder proposes to bring before the annual meeting (a) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (b) the name and record address of the shareholder proposing such business, (c) the class and number of shares of capital stock of the Corporation which are beneficially owned by the shareholder, and (d) any material interest of the shareholder in such business. The Chairman of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the requirements of this Section 2 of Article VIII, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

ARTICLE IX.

WAIVER OF MONETARY DAMAGES

No director of the Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for breach of duty of care or any other duty as a director, except as provided by Section 607.0831 of the FBCA. If the FBCA is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the FBCA, as amended. If any of the provisions of this Article IX (including any provision within a single sentence) are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions are severable and shall remain enforceable to the fullest extent permitted by law. No amendment to or repeal of this Article IX shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

ARTICLE X.

INDEMNIFICATION

1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans (an "Indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the FBCA (including by any amendment to the FBCA, but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment) against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith and such indemnification shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the Indemnitee's heirs, executors and administrators; *provided*, that, except as provided in Paragraph (2) of this Article X, with respect to Proceedings to enforce rights to indemnification, the Corporation shall indemnify an Indemnitee in connection with a Proceeding (or part thereof) initiated by the Indemnitee only if such Proceeding (or part thereof) was authorized by the Board of Directors. The right to indemnification conferred in this Article X shall be a contract right and shall include the right to be paid by the Corporation the expenses (including attorneys' fees) incurred in defending a Proceeding in advance of its final disposition; *provided*, that, if the FBCA requires, the payment of such expenses incurred by an Indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such Indemnitee, including,

without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Indemnatee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such Indemnatee is not entitled to be indemnified for such expenses under this Article X or otherwise.

2. Right of Indemnatee to Bring Suit. If a claim under Paragraph (1) of this Article X is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, except in the case of a claim for expenses incurred in defending a proceeding in advance of its final disposition, in which case the applicable period shall be twenty (20) days, the Indemnatee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit or in a suit brought by the Corporation to recover payments by the Corporation of expenses incurred by an Indemnatee in defending, in his or her capacity as a director or officer, a Proceeding in advance of its final disposition, the Indemnatee shall be entitled to also be paid the expense of prosecuting or defending such claim. In any action brought by the Indemnatee to enforce a right to indemnification hereunder (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the required undertaking, if any, has been tendered to the Corporation) or by the Corporation to recover payments by the Corporation of expenses incurred by an Indemnatee in defending, in his or her capacity as a director or officer, a Proceeding in advance of its final disposition, the burden of proving that the Indemnatee is not entitled to be indemnified under this Article X or otherwise shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such action that indemnification of the Indemnatee is proper in the circumstances because the Indemnatee has met the applicable standard of Indemnatee conduct set forth in the FBCA, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its shareholders) that the Indemnatee has not met such applicable standard of conduct, shall create a presumption that the Indemnatee has not met the applicable standard of conduct or, in the case of such an action brought by the Indemnatee, be a defense to the action.

3. Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a Proceeding in advance of its final disposition conferred in this Article X shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, these Articles of Incorporation, the Corporation's By-Laws, agreement, vote of shareholders or disinterested directors or otherwise.

4. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the FBCA.

5. Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to be paid by the Corporation the expenses incurred in defending any

Proceeding in advance of its final disposition, to any employee or agent of the Corporation to the fullest extent of the provisions of this Article X with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

ARTICLE XI.

AMENDMENT

The Corporation hereby reserves the right from time to time to amend, alter, change or repeal any provision contained in these Amended and Restated Articles of Incorporation in any manner permitted by law and all rights and powers conferred upon shareholders, directors and officers herein are granted subject to this reservation. Except as provided in Section 2(d) of Article VI (and any amendment to these Amended and Restated Articles of Incorporation necessary to effect the type of Recapitalization described in such Section 2(d)), in addition to any vote otherwise required by law, any amendment, alteration, change or repeal of any provision of Article V, Article VI (other than Section 1 thereof), Article VII, Article VIII, Article XI or Article XII of these Amended and Restated Articles of Incorporation shall require approval of both (a) the Board of Directors by the affirmative vote of a majority of the members then in office and (b) the Corporation's shareholders by the affirmative vote of at least seventy five percent (75.0%) of the voting power of all shares of the Corporation's capital stock then entitled to vote generally in the election of directors, voting together as a single class (taking into account the provisions of Article VI(2)(c)).

ARTICLE XII.

NO WRITTEN CONSENT

Any action required or permitted to be taken at any annual or special meeting of shareholders of the Corporation may be taken only upon the vote of shareholders at a duly convened meeting of shareholders in accordance with these Amended and Restated Articles of Incorporation, and may not be taken by written consent of shareholders.

IN ACCORDANCE with Sections 607.1003 and 607.1007 of the Florida Business Corporation Act, these Amended and Restated Articles of Incorporation were approved by the shareholders at a duly called meeting held on March 8, 2000. The number of votes cast in favor of the Amended and Restated Articles of Incorporation by the shareholders was sufficient for its approval.

IN WITNESS WHEREOF, the Secretary of the Corporation has executed these Amended and Restated Articles of Incorporation as of October 3, 2000.


FLORIDA EAST COAST INDUSTRIES, INC.

By: Heidi J. Eddins
Name: Heidi J. Eddins
Title: Secretary

**CERTIFICATE OF REGISTERED AGENT
OF
FLORIDA EAST COAST INDUSTRIES, INC.**

Having been named to accept service of process for **FLORIDA EAST COAST INDUSTRIES, INC.** at One Malaga Street, St. Augustine, Florida 32084 which is the place designated in the foregoing Amended and Restated Articles of Incorporation, Heidi J. Eddins agrees to act in this capacity and is familiar with and accepts the obligations provided in Section 607.0505 of the Florida Business Corporation Act.

Date: October 3, 2000


Heidi J. Eddins

**AMENDED AND RESTATED BY-LAWS OF
FLORIDA EAST COAST INDUSTRIES, INC.**

ARTICLE I.

OFFICES

Section 1.1. Registered Office. The registered office of the Corporation shall be in the City of St. Augustine, County of St. Johns, State of Florida.

Section 1.2. Corporate Headquarters. The corporate headquarters of the Corporation shall be in the City of St. Augustine, Florida.

Section 1.3. Other Offices. The Corporation may also have offices at such other places both within and without the State of Florida as the Board of Directors of the Corporation (the "Board of Directors") may from time to time determine.

ARTICLE II.

SHAREHOLDERS' MEETINGS

Section 2.1. Place of Meetings. Meetings of the shareholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Florida, as shall be designated from time to time by the Board of Directors or the officer of the Corporation calling the meeting as authorized by the Corporation's Amended and Restated Articles of Incorporation (the "Articles of Incorporation") and stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2.2. Annual Meetings. Each annual meeting of shareholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting.

Section 2.3. Special Meetings. Special meetings of the shareholders, other than those required by statute, may be called only as provided, and for the purposes specified, in the Articles of Incorporation.

Section 2.4. Notice of Meeting. Written notice of the place, date, and time of all meetings of the shareholders shall be given not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each shareholder entitled to vote at such meeting, except as otherwise provided herein or as required from time to time by the Florida Business Corporation Act, as hereafter amended and modified (the "FBCA"), or the Articles of Incorporation. The notice of a special meeting shall also state the purpose or purposes for which the meeting is called.

Section 2.5. Quorum; Adjournment. At any meeting of the shareholders, the holders of a majority of all of the shares of the stock entitled to vote at the meeting (or, with respect to a meeting for the purpose of electing or removing a director, the holders of a majority of all shares of the class of stock entitled to vote for the election or removal of such director), present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law or the Articles of Incorporation. If a quorum shall fail to attend any meeting, the chairman of the meeting or the holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, may adjourn the meeting to another place, date, or time without notice other than announcement at the meeting, until a quorum shall be present or represented.

When a meeting is adjourned to another place, date or time, written notice need not be given of the adjourned meeting if the place, date and time thereof are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, written notice of the place, date, and time of the adjourned meeting shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

Section 2.6 Proxies and Voting. At any meeting of the shareholders, every shareholder entitled to vote may vote in person or by proxy authorized by an instrument in writing or in such manner as may be prescribed by the FBCA filed in accordance with the procedure established for the meeting.

Each shareholder shall have one vote for every share of stock entitled to vote which is registered in his or her name on the record date for the meeting, except as otherwise provided in the Articles of Incorporation or as required by law. Each shareholder shall have the voting rights provided in the Articles of Incorporation.

All voting, including on the election of directors but excepting where otherwise provided herein or required by law or the Articles of Incorporation, may be by a voice vote; provided, however, that upon demand therefor by a shareholder entitled to vote or such shareholder's proxy, or at the discretion of the chairperson of the meeting, a stock vote shall be taken. Every stock vote shall be taken by ballots, each of which shall state the name of the shareholder or proxy voting and such other information as may be required under the procedure established for the meeting. Every vote taken by ballots shall be counted by an inspector or inspectors appointed by the Board of Directors or the chairperson of the meeting.

All elections shall be performed in compliance with the Articles of Incorporation.

Section 2.7. Inspectors. At every election of directors, the officer presiding at the meeting shall appoint Inspectors of Election ("Inspectors of Election") to serve at such meeting. Inspectors of Election need not be shareholders and shall not be directors, officers or employees of the Corporation or candidates for election as directors. It shall be the duty of Inspectors of Election to receive and canvass the votes cast at such meeting and certify the result to the presiding officer. Any two of such Inspectors of Election shall be competent to act. Each Inspector of Election, before he or she enters on his or her duties of office, shall take and subscribe an oath, before a person authorized to take oaths in the State of Florida, that he or she

is qualified to be an Inspector of Election, and that he or she will well, faithfully and truly perform and discharge the duties of such office without fear, bias or discrimination. In all cases where the right to vote any share or shares of stock in the Corporation shall be questioned, it shall be the duty of the Inspectors of Election to examine the transfer books of the Corporation to determine in whose name such shares were registered on the record date. As between conflicting claims of the right to vote any share, the shareholder of record on the record date shall prevail over any proxy, and the proxy of the later date over any proxy of an earlier date. If two proxies bear the same date and the shareholder of record be not present in person, neither proxy shall be entitled to vote.

Section 2.8. Stock List. A complete list of shareholders entitled to vote at any meeting of shareholders, arranged in alphabetical order for each class of stock and showing the address of each such shareholder and the number of shares registered in such shareholder's name, shall be open to the examination of any such shareholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or if not so specified, at the place where the meeting is to be held.

The stock list shall also be kept at the place of the meeting during the whole time thereof and shall be open to the examination of any such shareholder who is present. The stock list shall presumptively determine the identity of the shareholders entitled to vote at the meeting and the number of shares held by each of them.

ARTICLE III.

BOARD OF DIRECTORS

Section 3.1. General Powers. The business of the Corporation shall be managed by or under the direction of the Board of Directors which may exercise all such powers of the Corporation and do all such lawful acts and things as are not directed or required by law, the Articles of Incorporation or these By-Laws to be exercised or done by the shareholders.

Section 3.1.1. Number and Term of Office. The Board of Directors shall consist of ten (10) members elected in accordance with the Articles of Incorporation. The directors shall be elected at the annual meeting of the stockholders by written ballot and each director so elected shall hold office until his or her successor is elected and qualified or until his or her earlier death, resignation or removal in accordance with the Articles of Incorporation.

Section 3.2. Vacancies. Any vacancy in the office of a director created by the death, resignation or removal of a director elected by (or appointed on behalf of) the shareholders of the Corporation may be filled as provided in the Articles of Incorporation.

Section 3.3. Presiding Officer. At all meetings of the Board of Directors, the Chairman of the Board of Directors (the "Chairman") or, in his or her absence, the President or, in the absence of both the Chairman and the President, a chairman chosen by a majority of the directors present, shall preside, and the Secretary of the Corporation (the "Secretary") or, in his or her

absence, an Assistant Secretary or, in the absence of both, any person appointed by the presiding officer, shall act as secretary.

Section 3.4. Meetings. The Board of Directors may hold meetings, both regular and special, either within or without the State of Florida. The first meeting of each newly-elected Board of Directors shall be held immediately following the annual meeting of shareholders and no notice of such meeting shall be necessary to be given the newly-elected directors in order legally to constitute the meeting, provided a quorum shall be present. Regular meetings of the Board of Directors may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman of the Board, the President or a majority of the directors then in office. Notice thereof stating the place, date and hour of the meeting shall be given to each director either by mail not less than forty-eight (48) hours before the date of the meeting, by telephone, telegram or facsimile transmission on twenty-four (24) hours' notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. Meetings may be held at any time without notice if all the directors are present or if all those not present waive such notice in accordance with Section 10.2 of these By-Laws.

Section 3.5. Actions by Directors by Means of Conference Telephone. The Chairman or the President may call a meeting of the Board of Directors which may participate in the meeting by means of a conference telephone, or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Action taken in such matters shall have the same force and effect as any other action of the Board of Directors.

Section 3.6. Quorum and Vote. Except as may be otherwise specifically provided by law, the Articles of Incorporation or these By-Laws, at all meetings of the Board of Directors, a majority of the entire Board of Directors shall constitute a quorum, and any act of a majority present at a meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, a majority of the Directors present at any meeting may adjourn such meeting from time to time, without any other notice thereof, until a quorum shall be present.

Section 3.7. Action Without a Meeting. Unless otherwise provided by the Articles of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

Section 3.8. Compensation. (a) Each director of the Corporation shall be entitled to receive transportation and other reasonable expenses incident to his or her attendance at any meeting of the Board of Directors or of any committee thereof, of which he or she may be a member, (b) Each non-management director shall be entitled to an annual retainer of twenty thousand dollars (\$20,000) payable quarterly in arrears for any quarter or part thereof, which he or she serves as a director. Each non-management director shall further be entitled to a fee of one thousand dollars (\$1,000) per day for each day or portion thereof, in which he or she is in attendance at each Board of Directors meeting. Each non-management director serving as a member of any committee of the Board of Directors shall be entitled to a fee of one thousand

dollars (\$1,000) per day for each day or portion thereof, in which he or she is in attendance at each committee meeting on a day other than the day of a Board of Directors meeting. Each non-management director shall further, upon first being elected to the Board of Directors after May 19, 1998, be entitled to participate in the Corporation's 1998 Stock Incentive Plan (as amended) as it then exists and shall receive an initial grant of an option to purchase two thousand (2,000) shares of Class A Common Stock ("Class A Common Stock"). Upon reelection to the Board of Directors, each director is entitled to a grant of an option to purchase one thousand (1,000) shares of Class A Common Stock, and (c) Directors who are employees of the Corporation shall not be entitled to compensation for serving on the Board of Directors or any committee of the Board.

Section 3.9. Committees. The Board of Directors, from their number, may elect an Executive Committee (the "Executive Committee") of not less than three (3) and not more than five (5) members, which shall always include the Chairman. The Board of Directors may appoint such other committees as from time to time the Board of Directors deems necessary. The Chairman of the Board of Directors shall call meetings of the Executive Committee when he or she deems it necessary, and shall preside at the meetings of said Executive Committee. The Executive Committee, when the Board of Directors is not in session, shall have full power to control and manage the affairs, business and property of the Corporation, and a majority of the Executive Committee shall constitute a quorum for the transaction of business coming before the Executive Committee. The Executive Committee, by unanimous action of all members thereof, shall have power to change or reverse a previous action or direction of the Board of Directors unless the exercise of such discretion shall have been previously forbidden by resolution of the Board of Directors. The Board of Directors, by a two-thirds majority of those present and voting, shall have the power to limit or enlarge the powers of the Executive Committee, to change membership therein, to fill vacancies in it or to dissolve it. The Executive Committee may make rules for the conduct of said business and may appoint such assistants as it may from time to time deem necessary. The duties of each other committee deemed necessary by the Board of Directors shall be vested with such rights and responsibilities as the Board of Directors may set forth in resolutions creating same.

Section 3.10. Director (Emeritus). The Board of Directors may by resolution confer upon any former Director the honorary title of Director (Emeritus). The designation, number and term (which may be at the pleasure of the Board of Directors) of each Director (Emeritus) shall be within the discretion of the Board of Directors. Directors (Emeritus) shall not be members of the Board of Directors for any purpose, nor counted toward a quorum thereof. A Director (Emeritus) shall have the privilege of attending, without vote, any meeting of the Board of Directors to which he or she is invited by the Chairman, but shall have none of the other privileges, or the rights or liabilities of a director. Each Director (Emeritus) shall receive the compensation that Board of Directors members receive for each meeting of the Board of Directors that they are invited to attend.

Section 3.11. Indemnification. The Corporation shall indemnify its directors and officers as provided in the Articles of Incorporation.

Section 3.12. Nominations. Nominations of persons for election to the Board of Directors may only be made as specified in the Articles of Incorporation.

Section 3.13. Removal. Any director may be removed from office only as provided in the Articles of Incorporation.

ARTICLE IV.

OFFICERS

Section 4.1. Officers. The officers of the Corporation shall be the Chairman, the President, a Secretary and one or more Assistant Secretaries, a Treasurer and one or more Assistant Treasurers, and such others as the Board of Directors shall from time to time determine. The offices of the Chairman and President may be combined. The Board may establish the office of one or more Vice Presidents and provide for their election by the Board, or their appointment by the Chairman or the President.

Section 4.2. Election; Term of Office. The Board of Directors at its first meeting held after each annual meeting of shareholders shall elect a Chairman or a President, or both, a Secretary and a Treasurer (or a position with the duties and responsibilities of a Treasurer), and may also elect at that meeting or any other meeting, such other officers and agents as it shall deem necessary or appropriate. Each officer of the Corporation shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors together with the powers and duties customarily exercised by such officer, and each officer of the Corporation shall hold office until such officer's successor is elected and qualified or until such officer's earlier resignation or removal. Any officer may resign at any time upon written notice to the Corporation. The Board of Directors may at any time, with or without cause, by the affirmative vote of a majority of directors then in office, remove any officer.

Section 4.3. Chairman. The Chairman shall be the Chief Executive Officer of the Corporation, subject to the provisions of these By-Laws, and perform such other duties as may from time to time be assigned by the Board of Directors. Unless the Board of Directors shall otherwise direct, he or she shall preside at all meetings of the Board of Directors and of the shareholders at which he or she shall be present.

Section 4.4. President and Vice President. The President, subject only to the Board of Directors, the Executive Committee, and the Chairman of the Board of Directors, shall conduct and have general supervision and management of the property and business of the Corporation, and shall report to, and be subject to the direction and supervision of, the Chairman. In the absence or disability of the Chairman, he or she shall call meetings of the Board of Directors when directed upon request of a majority of the Executive Committee. He or she may, after approval or ratification by the Board of Directors, or by the Chairman, appoint such officers and assistants (not elected or appointed by the Board of Directors) as he or she may require, who shall perform such duties as from time to time may be assigned to them by him or her, and after like approval, he or she may at any time remove any officer or assistant so appointed by him or her. In the absence of the Chairman, he or she shall preside at all meetings of the Board of Directors and the shareholders at which he or she shall be present. If the Board of Directors shall appoint one or more Vice Presidents, it shall establish the order in which each, in the absence of the President, shall perform the duties of the President. The Vice Presidents otherwise shall perform such duties as may from time to time be assigned to them by the President or the Board of Directors, and shall have such descriptive titles as the Board may from time to time determine.

Section 4.5. Treasurer. The Treasurer shall have the custody of the corporate funds and securities, and shall keep full and accurate accounts of receipts and disbursements in the books belonging to the Corporation, and shall deposit all monies and valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the Corporation as may be ordered by the Board of Directors, making proper vouchers for such disbursements, and shall render to the President and the directors at regular meetings of the Board of Directors, or whenever they require it, an account of all of his or her transactions as Treasurer and of the financial condition of the Corporation. He or she shall perform such other duties as are incident to the office or may from time to time be imposed on him or her by law, these By-Laws or by the President or Board of Directors. He or she shall give the Corporation a bond in a sum, and with one or more sureties, satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the Corporation in the case of his or her death, resignation, retirement, or removal from office of all books, papers, vouchers, money and other properties of whatever kind in his or her possession or under his or her control belonging to the Corporation. The duties of the Treasurer may be combined into a single officer with the duties of the Chief Accounting Officer under the title "Vice President-Finance," "Vice President and Comptroller," or other suitable title as determined from time to time by the Board of Directors.

Section 4.6. Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the shareholders and act as clerk thereof and record all votes and minutes of all proceedings in books to be kept for that purpose, and shall perform like duties for the Executive Committee and all standing committees of the Board of Directors when required. He or she shall give or cause to be given notice of all meetings of shareholders and of the Board of Directors and all committees thereof, and shall perform such additional duties as are incident to the office or may from time to time be imposed upon him or her by law, by these By-Laws, or by the President or the Board of Directors. He or she shall keep in safe custody the seal of the Corporation. His or her office may be combined with that of the Treasurer, but not if the office of the Treasurer is combined with that of the Chief Accounting Officer.

Section 4.7. Assistant Treasurers and Assistant Secretaries. Assistant Treasurers and Assistant Secretaries may be elected or appointed, and their duties prescribed by the Board of Directors, the Chairman, or the President, as the Board of Directors may, by general or special resolution, provide. In the absence or disability of the Treasurer or Secretary, the President shall designate an Assistant Treasurer or Assistant Secretary who shall perform the duties of Treasurer or Secretary.

Section 4.8. Salaries. The Board of Directors shall from time to time determine the compensation of the Chairman, the President, the Secretary and all other officers, and it may authorize the Chairman or the President from time to time to fix, increase or reduce the compensation of any officer or employee of the Corporation.

ARTICLE V.
CERTIFICATES OF STOCK

Section 5.1. Certificates of Stock. The certificates of stock of the Corporation shall be numbered and registered as they are issued. They shall exhibit the holder's name and the number of shares and shall be signed by the President or a Vice President and the Secretary or an Assistant Secretary or by the Treasurer or an Assistant Treasurer and shall bear the corporate seal which may be impressed, or a facsimile thereof which may be printed or engraved thereon. When the certificate is signed by a transfer agent and by a registrar, the signatures of any of the above officers may be facsimile. In case any officer of the Corporation who has signed, or whose facsimile signature has been used on any stock certificate shall have ceased to be such officer before the certificate is issued, such certificate shall be deemed adopted by the Corporation and may be issued as if the person, who signed it or whose facsimile signature has been used thereon, had not ceased to be such officer of the Corporation.

Section 5.2. Record Ownership. Upon surrender to the Corporation or a duly designated transfer agent of the Corporation of a certificate for shares of stock of the Corporation, duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, a new certificate shall be issued to the person entitled thereto, the old certificate shall be canceled and the transaction recorded on the books of the Corporation. The Corporation shall be entitled to treat the holder of record, on the books of the Corporation, of any share or shares of stock as the lawful and absolute owner thereof and entitled to receive dividends thereon and, accordingly, shall not be liable for failure to recognize any equitable or other claim to, or interest in, any such share on the part of any other person, whether or not it shall have express or other notice thereof, save and except only as expressly provided by Florida law.

Section 5.3. Record Date. In order that the Corporation may determine the shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 5.4. Transfer Agent and Registrar. The Board of Directors may make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of stock of the Corporation. It may appoint one or more transfer agents and one or more Registrars and, except as otherwise required by the laws of Florida, may delegate to it or them such duties with respect to the transfer and registration of shares of stock of the Corporation as it may deem desirable.

Section 5.5. Lost or Destroyed Certificates. Any person claiming that a certificate for shares of stock of the Corporation has been lost or destroyed shall make an affidavit or

affirmation of the fact and, if the Board of Directors so requires, advertise the same in such manner as the Board of Directors may direct, and shall give the Corporation a bond indemnifying the Corporation, its transfer agents and registrars, in such form and amount, and with such sureties as may be satisfactory to the Board; whereupon a new certificate may be issued of the same tenor and for the same number of shares as the one alleged to have been lost or destroyed, but always subject to such rules and regulations as the Board of Directors may prescribe.

Section 5.6. Power to Close Transfer Books. The Board of Directors shall have power to close the transfer books of the Corporation for a period not exceeding thirty (30) days preceding the date of payment of any dividend, or the date for the allotment of rights, or the date when any change, conversion, or exchange of shares shall become effective; provided, however, that in lieu of closing the transfer books as aforesaid, the Board of Directors may fix in advance a date, not less than ten (10) nor more than thirty (30) days preceding any such date, as the record date for the purpose of determining the shareholders entitled to receive payment of such dividend, or to such allotment of rights, or to exercise the rights in respect of such change, conversion, or exchange of shares; and, in such event, only such persons as shall be shareholders of record on the date on which the transfer books are closed, or on the record date so fixed, shall be entitled to receive payment of such dividend, or to such allotment of rights, or to exercise the rights in respect of such change, conversion, or exchange of shares, as the case may be, notwithstanding any prior or subsequent assignment or transfer of such shares.

ARTICLE VI.

CORPORATE BOOKS

The Corporation shall keep at its principal office in the City of St. Augustine, Florida (and in such other places as the Board of Directors shall from time to time determine) books and records of its accounts, minute books, and the names and places of residence of its officers. The Transfer Agent for the capital stock of the Corporation shall maintain and keep stock books in which shall be recorded the number of shares of stock of the Corporation subscribed, the names (alphabetically arranged) and addresses of the owners of the shares, the numbers owned by them, respectively, the amount of shares paid and by whom, the transfer of said shares, with the date of transfer. The stock books shall be open for at least three (3) business hours in each business day for inspection by any judgment creditor or any person who shall have been for at least six (6) months immediately preceding his or her demand a holder of record of 1% or more of the outstanding shares of the Corporation, or by any officer, director or any committee or persons holding or authorized in writing by the holders of record of at least 5% of its outstanding shares, with the right to make extracts therefrom. Upon the demand of any person entitled to do so, the Corporation, upon the payment of the fees of the transfer agent therefor, shall furnish, or cause to be furnished, a certified copy of such stock list to such person.

ARTICLE VII.

CORPORATE INSTRUMENTS

Section 7.1. Checks, Notes, Etc. All checks, notes, drafts, bills of exchange and all other orders for payment by the Corporation shall be signed in such manner, and by such officer or officers (or when drawn on an account opened for a special or limited purpose, by such person or persons) as the Board of Directors or the Executive Committee may from time to time determine.

Section 7.2. Other Instruments. Any deed, mortgage, lease, pledge, bond, contract, agreement, power of attorney, proxy, evidence of obligation or an interest in property, or other instrument may be executed on behalf of the Corporation by any person, whether an officer, or not, expressly so authorized, either by general resolution of the Board of Directors, or by a resolution authorizing the particular act. In all cases, the due execution of any such instrument on behalf of the Corporation shall be sufficiently evidenced if executed in its name by the President or one of the Vice Presidents, with the corporate seal affixed, and attested by the Secretary or an Assistant Secretary; provided, that execution by the Corporation of bonds, notes, certificates, or other evidence of indebtedness secured by a mortgage, lease or other instrument duly executed by authorized officers of the Corporation which require authentication thereof by the trustee or trustees of said mortgage, lease or other instrument of indebtedness may be evidenced by the facsimile signature of the authorized officers of the Corporation in lieu of their manual signatures.

Section 7.3. Proxies. Unless otherwise provided by resolution of the Board of Directors, the President may from time to time, in the name and on behalf of the Corporation, appoint an attorney or attorneys, or other agent or agents of the Corporation (who may be or include him or herself), to cast the votes which the Corporation may be entitled to cast as a shareholder or otherwise in any other corporation, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporations, or to consent in writing to any action by such other corporation; may instruct the person or persons so appointed as to the casting of such votes or giving such consent; and may execute or cause to be executed, in the name and on behalf of the Corporation and under its corporate seal, all such written proxies or other instruments as may be necessary or proper to evidence the appointment of such attorneys or agents.

ARTICLE VIII.

CORPORATE SEAL

The seal of the Corporation shall be circular in shape, with the words "Corporate Seal 1983" in the center, encircled by the words, "Florida East Coast Industries, Inc., *Florida*." The Corporation may have duplicate seals and the seal, and all duplicates thereof, shall be kept in the custody of the Secretary or of such officer or officers as may from time to time be designated by the Board of Directors.

ARTICLE IX.

ACCOUNTS

Section 9.1. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January each year.

Section 9.2. Audit. The Board of Directors, or the Chairman of the Board, shall cause a detailed examination, verification, or restatement of the accounts, income statement and balance sheet of the Corporation to be made at such times as they may desire, by a firm of certified public accountants authorized to practice in the State of Florida.

ARTICLE X.

NOTICE

Section 10.1. Notice. Whenever written notice is required by law, the Articles of Incorporation or these By-Laws, to be given to any director, member of a committee or shareholder, such notice may be given by mail, addressed to such director, member of a committee or shareholder, at such person's address as it appears on the records of the Corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Written notice may also be given personally or by facsimile transmission and such notice shall be deemed to be given at the time of receipt thereof if given personally or at the time of transmission thereof if given by facsimile transmission.

Section 10.2. Waiver of Notice. Whenever any notice is required to be given under these By-Laws or the Articles of Incorporation, a waiver thereof, in writing, by the person entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.