

313573

Florida Department of State
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BASIC AMENDMENT

MISENER MARINE CONSTRUCTION, INC.

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*313573 on
Amend
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1/12/2005 12:37 PAGE 001/001 Florida Dept of State



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

January 12, 2005

MISENER MARINE CONSTRUCTION, INC.
5600 W. COMMERCE ST.
TAMPA, FL 33616US

SUBJECT: MISENER MARINE CONSTRUCTION, INC.
REF: 313573

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

The date of adoption of each amendment must be included in the document.

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

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Carol Mustain
Document Specialist

FAX Aud. #: H05000007922
Letter Number: 705A00002331

H05000079223

Articles of Amendment
to
Articles of Incorporation
of

Mistner Marine Construction, Inc.

(Name of corporation as currently filed with the Florida Dept. of State)

313573

(Document number of corporation (if known))

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CLERK OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of section 607.1006, Florida Statutes, this *Florida Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

AMENDMENTS ADOPTED

Article III. Capital Stock is hereby amended by deleting it in its entirety and adding in its place the following:

ARTICLE III. CAPITAL STOCK

1. **Authorized Shares.** The total number of shares of stock that this Corporation shall have authority to issue is six thousand five hundred fifty (6,550), consisting of fifty (50) shares of common stock, all of which are without par value (the "Common Stock"), and six thousand five hundred (6,500) shares of preferred stock, all of which are without par value (the "Preferred Stock").

2. **Common Stock.** The holders of Common Stock shall be entitled to one (1) vote for each share of Common Stock at all meetings of the stockholders. Cumulative voting shall not be permitted. Subject only to the rights of the Preferred Stock set forth below, the holders of Common Stock shall be entitled to receive the net assets of the Corporation upon dissolution pro rata in accordance with the number of shares of Common Stock held by each such holder.

3. **Preferred Stock.** Except to the extent prohibited by the Florida Business Corporation Act, the Preferred Stock shall have no right to vote. In the event of the dissolution of the Corporation, the holders of the Preferred Stock shall be entitled to receive, prior and in preference to any payment or distribution and setting apart for payment or distribution of any of the net assets of the Corporation to the holders of the Common Stock, an amount (the "Liquidation Preference") for each share of Preferred Stock then held by them equal to the sum of \$1,000.00 (as adjusted for any stock splits, stock dividends, recapitalizations, combinations, or similar transactions with respect to such shares after the filing date of this Certificate) plus the total amount of the Invoice Premium paid by GPA to the Corporation up to the date of such dissolution (less the sum of (x) the total amount of the Invoice Premium that has been paid by the Corporation to any holder of Preferred Stock pursuant to the Redemption Agreement and (y) the aggregate redemption price paid for any shares of Preferred Stock at any time redeemed by the Corporation pursuant to this Section 3 of Article III, to the extent such redemption price exceeds \$1,000 per share of Preferred Stock). As used herein, "Redemption Agreement" means that certain Preferred Stock Purchase and Redemption Agreement,

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dated as of January 2005, between the Corporation and the initial holder of shares of Preferred Stock; "Invoice Premium" and "GPA" have the meanings given to them in the Redemption Agreement; and "GPA Settlement Date" shall mean the date of receipt by the Corporation of the total Invoice Premium from GPA or, if earlier, the date upon which the Corporation and GPA enter into a binding agreement, or a court of competent jurisdiction enters a judgment, settling the amount of the Invoice Premium to be paid to the Corporation by GPA. At any time, or from time to time, following the GPA Settlement Date, the Corporation may redeem all or any portion (including any fractional share) of the then outstanding shares of Preferred Stock by giving written notice by first class mail, postage prepaid, to each holder (as of the close of business on the business day next preceding the date on which notice is given) of Preferred Stock, at the address of such holder last shown on the records of the Corporation, specifying (i) the Corporation's election to redeem all or such portion of the Preferred Stock, (ii) the date fixed by the Corporation for such redemption (each, a "Redemption Date"), (iii) the aggregate number of shares of Preferred Stock to be redeemed from all holders on such Redemption Date, (iv) the number of shares to be redeemed from such holder on such Redemption Date and (v) the place at which payment may be obtained and calling upon such holder to surrender to the Corporation in the manner and at the place designated, its certificate or certificates representing the shares of Preferred Stock to be redeemed on such Redemption Date (the "Redemption Notice"). Any such redemption shall be made on a pro rata basis among the holders of the Preferred Stock in proportion to the number of shares of the Preferred Stock then held by each of them. The Corporation shall effect each such redemption by paying cash for each share of Preferred Stock redeemed on such Redemption Date equal to the Liquidation Preference for such share as of the Redemption Date. On or after the Redemption Date, each holder of Preferred Stock to be redeemed on such Redemption Date shall surrender to the Corporation the certificate or certificates representing such shares, in the manner and at the place designated in the Redemption Notice, and upon the surrender of such certificate or certificates the redemption price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner of the certificate or certificates and each surrendered certificate shall be canceled. If fewer than the total number of shares of Preferred Stock represented by any certificate are redeemed, a new certificate representing the number of unredeemed shares of Preferred Stock shall be issued to the holder of such shares without cost to such holder within a reasonable time after surrender of the certificate representing the redeemed shares. Except as specifically set forth above or in the Redemption Agreement or as specifically required by the Florida Business Corporation Act, the Preferred Stock shall have no rights, preferences or privileges, including without limitation no rights to dividends or distributions.

(Attach additional pages if necessary)

If an amendment provides for exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself: (if not applicable, indicate N/A)

N/A

(continued)

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The date of each amendment(s) adoption: January 4, 2005

Effective date if applicable: _____

(no more than 90 days after amendment file date)

Adoption of Amendment(s) (CHECK ONE)

- ☒ The amendment(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) by the shareholders was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups. The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):
- "The number of votes cast for the amendment(s) was/were sufficient for approval by _____"
- (voting group)
- ☐ The amendment(s) was/were approved by the board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were approved by the incorporators without shareholder action and shareholder action was not required.

Signed this 4th day of January, 2005.

Signature

(By a director, president or other officer - if directors or officers have not been selected, by an incorporator - if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

MARK R. STAUFFER

(Typed or printed name of person signing)

VICE PRESIDENT

(Title of person signing)

FILING FEE: \$35