

248310

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

Special Instructions to Filing Officer:

Office Use Only



300338389853

01/01/20

FILED
SECRETARY OF STATE
DIVISION OF CORPORATE AFFAIRS
2019 DEC 27 AM 9:37

01/06/20

DC

2019 DEC 27 PM 3:20

Merger/CC
w/ NLR

CT CORP

3458 Lakeshore Drive, Tallahassee, FL 32312
850-656-4724

Date: 12/27/2019
Acc#I20160000072

en: c DW

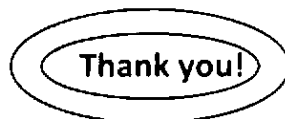
Name:	HJ FOUNDATION COMPANY
Document #:	
Order #:	12509255 - 21

Certified Copy of Arts & Amend:	<input type="checkbox"/>		
Plain Copy:	<input type="checkbox"/>		
Certificate of Good Standing:	<input type="checkbox"/>		
	<input type="checkbox"/>		
Apostille/Notarial Certification:	<input type="checkbox"/>	Country of Destination:	
		Number of Certs:	

Filing: <input checked="" type="checkbox"/>	Certified: <input checked="" type="checkbox"/>
	Plain: <input type="checkbox"/>
	COGS: <input type="checkbox"/>

Availability _____
Document _____
Examiner _____
Updater _____
Verifier _____
W.P. Verifier _____
Ref# _____

Amount: \$ up to \$288.75



COVER LETTER

TO: Amendment Section
Division of Corporations

SUBJECT: HAYWARD BAKER, INC.

Name of Surviving Party

Please return all correspondence concerning this matter to:

JOHN FELICCIA

Contact Person

KELLER FOUNDATIONS, LLC

Firm/Company

7550 TEAGUE ROAD, SUITE 300

Address

HANOVER, MD 21076

City, State and Zip Code

LICENSING@KELLER-NA.COM

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

JOHN FELICCIA

Name of Contact Person

at (410) 551-1938

Area Code and Daytime Telephone Number

☐ Certified Copy (optional) \$8.75

Mailing Address:

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address:

Amendment Section
Division of Corporations
The Centre of Tallahassee
2415 N. Monroe Street, Suite 810
Tallahassee, FL 32303

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2019 DEC 27 AM 9:37

**Articles of Merger
For
Florida Profit or Non-Profit Corporation
Into
Other Business Entity**

The following Articles of Merger are submitted to merge the following Florida Profit and/or Non-Profit Corporation(s) in accordance with s. 607.1109, 617.0302 or 605.1025, Florida Statutes.

FIRST: The exact name, form/entity type, and jurisdiction for each merging party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
<u>SEE ATTACHED.</u>		

SECOND: The exact name, form/entity type, and jurisdiction of the surviving party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
<u>HAYWARD BAKER, INC.</u>	<u>DELAWARE</u>	<u>PROFIT CORP</u>

848310

THIRD: The attached plan of merger was approved by each domestic corporation, limited liability company, partnership and/or limited partnership that is a party to the merger in accordance with the applicable provisions of Chapters 607, 605, 617, and/or 620, Florida Statutes.

The exact name, form/entity type, and jurisdiction of each merging party are as follows:

NAME	JURISDICTION	FORM/ENTITY TYPE
Case Atlantic Company	Maryland F98-287	Profit Corporation
Geochemical Corporation	Maryland	Profit Corporation
The Concrete Doctor, Inc.	Illinois	Profit Corporation
HJ Foundation Company	Florida 907-101738	Profit Corporation
EB Construction Company	Florida 907-101722	Profit Corporation
Seaboard Foundations, Inc.	Texas 834558	Profit Corporation
McKinney Woodstock LLC	Texas	Limited Liability Company

FOURTH: The attached plan of merger was approved by each other business entity that is a party to the merger in accordance with the applicable laws of the state, country or jurisdiction under which such other business entity is formed, organized or incorporated.

FIFTH: If other than the date of filing, the effective date of the merger, which cannot be prior to nor more than 90 days after the date this document is filed by the Florida Department of State:

JANUARY 1, 2020, at 12:05 AM EASTERN STANDARD TIME

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

SIXTH: If the surviving party is not formed, organized or incorporated under the laws of Florida, the survivor's principal office address in its home state, country or jurisdiction is as follows:

1209 ORANGE STREET

WILMINGTON, DE 19801

SEVENTH: If the surviving party is an out-of-state entity, the surviving entity:

a.) Appoints the Florida Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation that is party to the merger.

b.) Agrees to promptly pay the dissenting shareholders of each domestic corporation that is a party to the merger the amount, if any, to which they are entitled under s. 607.1302, F.S.

PLAN OF MERGER

FIRST: The exact name, form/entity type, and jurisdiction for each merging party are as follows:

[illegible]

SEE ATTACHED.

SECOND: The exact name, form/entity type, and jurisdiction of the **surviving** party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
-------------	---------------------	-------------------------

THIRD: The terms and conditions of the merger are as follows:

(Attach additional sheet if necessary)

FOURTH:

A. The manner and basis of converting the interests, shares, obligations or other securities of each merged party into the interests, shares, obligations or others securities of the survivor, in whole or in part, into cash or other property is as follows:

(Attach additional sheet if necessary)

B. The manner and basis of converting the rights to acquire the interests, shares, obligations or other securities of each merged party into the rights to acquire the interests, shares, obligations or others securities of the survivor, in whole or in part, into cash or other property is as follows:

(Attach additional sheet if necessary)

FIFTH: If a partnership is the survivor, the name and business address of each general partner is as follows:

(Attach additional sheet if necessary)

SIXTH: If a limited liability company is the survivor, the name and business address of each manager or managing member is as follows:

(Attach additional sheet if necessary)

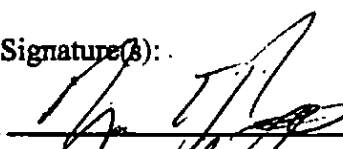
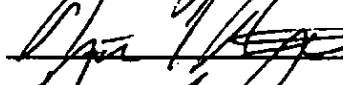


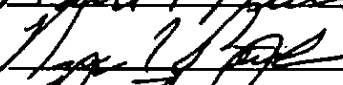
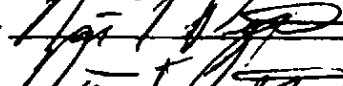
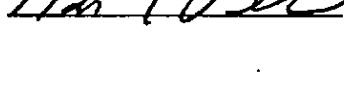
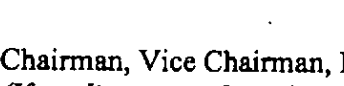
SEVENTH: Any statements that are required by the laws under which each other business entity is formed, organized, or incorporated are as follows:

(Attach additional sheet if necessary)

EIGHTH: Other provision, if any, relating to the merger are as follows:

(Attach additional sheet if necessary)

EIGHTH: Signature(s) for Each Party:

Name of Entity/Organization:	Signature(s):	Typed or Printed Name of Individual:
HAYWARD BAKER, INC.		DAVID PEITSCH
CASE ATLANTIC COMPANY		DAVID PEITSCH
GEOCHEMICAL CORPORATION		DAVID PEITSCH
THE CONCRETE DOCTOR, INC.		DAVID PEITSCH
HJ FOUNDATION COMPANY		DAVID PEITSCH
EB CONSTRUCTION COMPANY		DAVID PEITSCH
SEABOARD FOUNDATIONS, INC.		DAVID PEITSCH
MCKINNEY WOODSTOCK LLC		DAVID PEITSCH

Corporations:

Chairman, Vice Chairman, President or Officer
(If no directors selected, signature of incorporator.)

General Partnerships:

Signature of a general partner or authorized person

Florida Limited Partnerships:

Signatures of all general partners

Non-Florida Limited Partnerships:

Signature of a general partner

Limited Liability Companies:

Signature of a member or authorized representative.

Fees:

\$35.00 Per Party

Certified Copy (optional):

\$8.75

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "**Agreement**"), dated as of December 23, 2019, by and between Hayward Baker, Inc., a Delaware corporation (the "**Acquiror**"), Case Atlantic Company, a Maryland corporation ("**CAC**"), Geochemical Corporation, a Maryland corporation ("**GCC**"), The Concrete Doctor, Inc., an Illinois corporation ("**TCDI**"), HJ Foundation Company, a Florida corporation ("**HJ**"), EB Construction Company, a Florida corporation ("**EB**"), Seaboard Foundations, Inc., a Texas corporation ("**SFI**"), and McKinney Woodstock LLC, a Texas limited liability company ("**MW**") (together, CAC, GCC, TCDI, HJ, EB, SFI, and MW are the "**Companies**").

WHEREAS, the Acquiror is the sole shareholder of all issued and outstanding shares of each of the Companies;

WHEREAS, the respective Boards of Directors of the Acquiror and the Companies have each approved and adopted this Agreement and the transactions contemplated by this Agreement, in each case after making a determination that this Agreement and such transactions are advisable and fair to, and in the best interests of, such corporation and its stockholders;

WHEREAS, pursuant to the transactions contemplated by this Agreement and on the terms and subject to the conditions set forth herein, the Companies, in accordance with the Delaware General Corporation Law (the "**DGCL**"), the Florida Business Corporation Act, the Maryland Code, Corporations and Associations, the Illinois Business Corporation Act, and the Texas Business Organizations Code, will merge with and into the Acquiror, with the Acquiror as the surviving Delaware corporation (the "**Merger**");

WHEREAS, for US federal income tax purposes, the parties intend that the merger of GCC, TCDI, HJ, and EB qualify as a tax-free reorganization within the meaning of Section 332 of the Internal Revenue Code of 1986, as amended;

WHEREAS, for US federal income tax purposes, the parties intend that the merger of SFI and CAC qualify as a tax-free contribution of assets within the meaning of section 368(a) of the Internal Revenue Code of 1986, as amended;

WHEREAS, for US federal income tax purposes, the parties intend that the merger of MW be disregarded; and

WHEREAS, the Acquiror will have previously filed an amended certificate of incorporation relinquishing its corporate name and assuming in place thereof the name Keller North America, Inc., with an effective date as of January 1, 2020, at 12:01 AM Eastern Standard Time.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Merger. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with Section 252 of the DGCL, the Companies shall be merged with and into the Acquiror at the Effective Time (as hereinafter defined). Following the Effective Time, the

separate corporate existence of the Companies shall cease, and the Acquiror shall continue as the surviving corporation (the "**Surviving Corporation**"). The effects and consequences of the Merger shall be as set forth in this Agreement and the DGCL.

2. Effective Time.

(a) Subject to the provisions of this Agreement, and in accordance with Section 252 of the DGCL, the parties shall file this Agreement with the Secretary of State of the State of Delaware with an effective date as of January 1, 2020, at 12:05 AM Eastern Standard Time (the "**Effective Time**").

(b) The Merger shall have the effects set forth in the DGCL, including without limitation, Section 259 of the DGCL. Without limiting the generality of the foregoing, from the Effective Time: (i) all the properties, rights, privileges, immunities, powers and franchises of the Company shall vest in the Acquiror, as the Surviving Corporation, and (ii) all debts, liabilities, obligations and duties of the Company shall become the debts, liabilities, obligations and duties of the Acquiror, as the Surviving Corporation.

3. Organizational Documents. The by-laws of the Acquiror in effect at the Effective Time shall be the by-laws of the Surviving Corporation until thereafter amended as provided therein or by the DGCL, and the certificate of incorporation of the Acquiror in effect at the Effective Time shall be the certificate of incorporation of the Surviving Corporation until thereafter amended as provided therein or by the DGCL. The certificate of incorporation is attached hereto as Exhibit A. The by-laws are attached hereto as Exhibit B.

4. Directors and Officers. The directors of the Acquiror immediately prior to the Effective Time shall be the directors of the Surviving Corporation from and after the Effective Time and shall hold office until the earlier of their respective death, resignation or removal or their respective successors are duly elected or appointed and qualified in the manner provided for in the certificate of incorporation and by-laws of the Surviving Corporation or as otherwise provided by the DGCL. New officers shall be appointed by the directors upon completion of the Merger and in accordance with the by-laws of the Surviving Corporation.

5. Conversion of Securities. At the Effective Time, by virtue of the Merger and without any action on the part of the Acquiror or the Companies or Keller:

(a) each of the 100,000 shares of common stock of CAC issued and outstanding immediately prior to the Effective Time shall automatically be canceled and retired and will cease to exist, with no consideration;

(b) each of the 1,000 shares of common stock of GCC issued and outstanding immediately prior to the Effective Time shall automatically be canceled and retired and will cease to exist, with no consideration;

(c) each of the 4,500 shares of common stock of TCDI issued and outstanding immediately prior to the Effective Time shall automatically be canceled and retired and will cease to exist, with no consideration;

(d) each of the 100 shares of common stock of HJ issued and outstanding immediately prior to the Effective Time shall automatically be canceled and retired and will cease to exist, with no consideration;

(e) each of the 100 shares of common stock of EB issued and outstanding immediately prior to the Effective Time shall automatically be canceled and retired and will cease to exist, with no consideration;

(f) each of the 10,000 shares of common stock of SFI issued and outstanding immediately prior to the Effective Time shall automatically be canceled and retired and will cease to exist, with no consideration;

(g) all membership interest in MW shall be canceled with no consideration;

(h) each share of capital stock of Acquiror issued and outstanding immediately prior to the Effective Time shall remain outstanding following the consummation of the Merger.

6. Entire Agreement. This Agreement together with the Certificate of Merger constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, representations and warranties, and agreements, both written and oral, with respect to such subject matter.

7. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

8. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

9. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

10. Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

11. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, 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 greatest extent possible.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Delaware.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

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

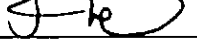
HAYWARD BAKER, INC.

By 
Name: Eric Dröbn, President

CASE ATLANTIC COMPANY

By _____
Name: Nigel Osborn, President

GEOCHEMICAL CORPORATION

By 
Name: James Hind, President

THE CONCRETE DOCTOR, INC.

By 
Name: James Hind, President

HJ FOUNDATION COMPANY

By _____
Name: Frank Fonseca, President

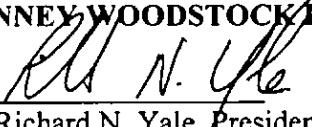
EB CONSTRUCTION COMPANY

By _____
Name: Frank Marshall, President

SEABOARD FOUNDATIONS, INC.

By _____
Name: Daniel O'Neal, President

MCKINNEY WOODSTOCK LLC

By 
Name: Richard N. Yale, President

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

HAYWARD BAKER, INC.

By _____
Name: Eric Drooff, President

CASE ATLANTIC COMPANY

By 
Name: Nigel Osborn, President

GEOCHEMICAL CORPORATION

By _____
Name: James Hind, President

THE CONCRETE DOCTOR, INC.

By _____
Name: James Hind, President

HJ FOUNDATION COMPANY

By _____
Name: Frank Fonseca, President

EB CONSTRUCTION COMPANY

By _____
Name: Frank Marshall, President

SEABOARD FOUNDATIONS, INC.

By _____
Name: Daniel O'Neal, President

MCKINNEY WOODSTOCK LLC

By _____
Name: Richard N. Yale, President

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

HAYWARD BAKER, INC.

By _____
Name: Eric Drooff, President

CASE ATLANTIC COMPANY

By _____
Name: Nigel Osborn, President

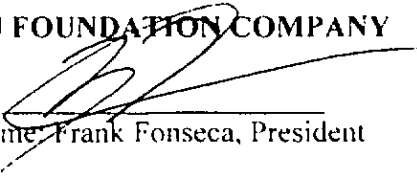
GEOCHEMICAL CORPORATION

By _____
Name: James Hind, President

THE CONCRETE DOCTOR, INC.

By _____
Name: James Hind, President

HJ FOUNDATION COMPANY

By  _____
Name: Frank Fonseca, President

EB CONSTRUCTION COMPANY

By _____
Name: Frank Marshall, President

SEABOARD FOUNDATIONS, INC.

By _____
Name: Daniel O'Neal, President

MCKINNEY WOODSTOCK LLC

By _____
Name: Richard N. Yale, President

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

HAYWARD BAKER, INC.

By _____
Name: Eric Drooff, President

CASE ATLANTIC COMPANY

By _____
Name: Nigel Osborn, President

GEOCHEMICAL CORPORATION

By _____
Name: James Hind, President

THE CONCRETE DOCTOR, INC.

By _____
Name: James Hind, President

HJ FOUNDATION COMPANY

By _____
Name: Frank Fonseca, President

EB CONSTRUCTION COMPANY

By 
Name: Frank Marshall, President

SEABOARD FOUNDATIONS, INC.

By _____
Name: Daniel O'Neal, President

MCKINNEY WOODSTOCK LLC

By _____
Name: Richard N. Yale, President

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

HAYWARD BAKER, INC.

By _____
Name: Eric Drooff, President

CASE ATLANTIC COMPANY

By _____
Name: Nigel Osborn, President

GEOCHEMICAL CORPORATION

By _____
Name: James Hind, President

THE CONCRETE DOCTOR, INC.

By _____
Name: James Hind, President

HJ FOUNDATION COMPANY

By _____
Name: Frank Fonseca, President

EB CONSTRUCTION COMPANY

By _____
Name: Frank Marshall, President

SEABOARD FOUNDATIONS, INC.

By 
Name: Daniel O'Neal, President

MCKINNEY WOODSTOCK LLC

By _____
Name: Richard N. Yale, President

EXHIBIT A

Surviving Certificate of Incorporation

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF
KELLER NORTH AMERICA, INC.

The undersigned, in order to form a corporation pursuant to Section 102 of the General Corporation Law of the State of Delaware, does hereby certify:

FIRST: The name of the Corporation is Keller North America, Inc.

SECOND: The address of the Corporation's registered office in the State of Delaware is 1209 N Orange Street in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, including, without limitation, the carrying on of its business of specialist foundation contracting work for the building industry.

FOURTH: The total number of shares which the Corporation shall have authority to issue is 1,000 shares of Common Stock, par value \$1.00 per share.

FIFTH: The name and mailing address of the Incorporator is as follows:

James Hind
7550 Teague Road, Ste 300
Hanover, MD 21076

SIXTH: The board of directors is expressly authorized to adopt, amend or repeal the by-laws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot unless the by-laws of the Corporation shall otherwise provide.

EIGHTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by Statute, and all rights conferred upon stockholders herein are granted subject to this reservation.



Name: James Hind

EXHIBIT B

Surviving By-Laws

BY-LAWS OF
GKN KELLER INC.
(A Delaware Corporation)

ARTICLE I

Offices

SECTION 1. Registered Office. The registered office of the Corporation within the State of Delaware shall be in the City of Wilmington, County of New Castle.

SECTION 2. Other Offices. The Corporation may also have an office or offices other than said registered office at such place or places, either within or without the State of Delaware, as the Board of Directors shall from time to time determine or the business of the Corporation may require.

ARTICLE II

Meetings of Stockholders

SECTION 1. Place of Meetings. All meetings of the stockholders for the election of directors or for any other purpose shall be held at any such place, either within or without the State of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of meeting or in a duly executed waiver thereof.

SECTION 2. Annual Meeting. The annual meeting of stockholders, commencing with the year 1981, shall be held at 10:30 A.M. on the 31st of March, if not a legal holiday, and if a legal holiday, then on the next succeeding day not a legal holiday, at 10:30 A.M., or at such other date and time

as shall be designated from time to time by the Board of Directors and stated in the notice of meeting or in a duly executed waiver thereof. At such annual meeting, the stockholders shall elect, by a plurality vote, a Board of Directors and transact such other business as may properly be brought before the meeting.

SECTION 3. Special Meetings. Special meetings of stockholders, unless otherwise prescribed by statute, may be called at any time by the Board of Directors or the Chairman of the Board, if one shall have been elected, or the President and shall be called by the Secretary upon the request in writing of a stockholder or stockholders holding of record at least fifty-one (51) percent of the voting power of the issued and outstanding shares of stock of the Corporation entitled to vote at such meeting.

SECTION 4. Notice of Meetings. Except as otherwise expressly required by statute, written notice of each annual and special meeting of stockholders stating the date, place and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each stockholder of record entitled to vote thereat not less than ten nor more than sixty days before the date of the meeting. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. Notice shall be given personally or by mail and, if by mail, shall be sent in a postage prepaid envelope, addressed

to the stockholder at his address as it appears on the records of the Corporation. Notice by mail shall be deemed given at the time when the same shall be deposited in the United States mail, postage prepaid. Notice of any meeting shall not be required to be given to any person who attends such meeting, except when such person attends the meeting in person or by proxy for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened, or who, either before or after the meeting, shall submit a signed written waiver of notice, in person or by proxy. Neither the business to be transacted at, nor the purpose of, an annual or special meeting of stockholders need be specified in any written waiver of notice.

SECTION 5. List of Stockholders. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, showing the address of and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city, town or village where the meeting is to be held, which place shall be specified in the notice of meeting, or, if not

specified, at the place where the meeting is to be held. The list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

SECTION 6. Quorum, Adjournments. The holders of a majority of the voting power of the issued and outstanding stock of the Corporation entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of stockholders, except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such quorum shall not be present or represented by proxy at any meeting of stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented by proxy. At such adjourned meeting at which a quorum shall be present or represented by proxy, any business may be transacted which might have been transacted at the meeting as originally called. If the adjournment is for more than thirty days, or, if after adjournment a new record date is set, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

SECTION 7. Organization. At each meeting of stockholders, the Chairman of the Board, if one shall have been elected, or, in his absence or if one shall not have been

elected, the President shall act as chairman of the meeting. The Secretary or, in his absence or inability to act, the person whom the chairman of the meeting shall appoint secretary of the meeting shall act as secretary of the meeting and keep the minutes thereof.

SECTION 8. Order of Business. The order of business at all meetings of the stockholders shall be as determined by the chairman of the meeting.

SECTION 9. Voting. Except as otherwise provided by statute or the Certificate of Incorporation, each stockholder of the Corporation shall be entitled at each meeting of stockholders to one vote for each share of capital stock of the Corporation standing in his name on the record of stockholders of the Corporation:

(a) on the date fixed pursuant to the provisions of Section 7 of Article V of these By-Laws as the record date for the determination of the stockholders who shall be entitled to notice of and to vote at such meeting; or

(b) if no such record date shall have been so fixed, then at the close of business on the day next preceding the day on which notice thereof shall be given, or, if notice is waived, at the close of business on the date next preceding the day on which the meeting is held.

Each stockholder entitled to vote at any meeting of stockholders

may authorize another person or persons to act for him by a proxy signed by such stockholder or his attorney-in-fact, but no proxy shall be voted after three years from its date, unless the proxy provides for a longer period. Any such proxy shall be delivered to the secretary of the meeting at or prior to the time designated in the order of business for so delivering such proxies. When a quorum is present at any meeting, the vote of the holders of a majority of the voting power of the issued and outstanding stock of the Corporation entitled to vote thereon, present in person or represented by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Unless required by statute, or determined by the chairman of the meeting to be advisable, the vote on any question need not be by ballot. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by his proxy, if there by such proxy, and shall state the number of shares voted.

SECTION 10. Inspectors. The Board of Directors may, in advance of any meeting of stockholders, appoint one or more inspectors to act at such meeting or any adjournment thereof. If any of the inspectors so appointed shall fail to appear or

act, the chairman of the meeting shall, or if inspectors shall not have been appointed, the chairman of the meeting may, appoint one or more inspectors. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. The inspectors shall determine the number of shares of capital stock of the Corporation outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the results, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the chairman of the meeting, the inspectors shall make a report in writing of any challenge, request or matter determined by them and shall execute a certificate of any fact found by them. No director or candidate for the office of director shall act as an inspector of an election of directors. Inspectors need not be stockholders.

SECTION 11. Action by Consent. Whenever the vote of stockholders at a meeting thereof is required or permitted to be taken for or in connection with any corporate action, by any provision of statute or of the Certificate of Incorporation

or of these By-Laws, the meeting and vote of stockholders may be dispensed with, and the action taken without such meeting and vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of stock of the Corporation entitled to vote thereon were present and voted.

ARTICLE III

Board of Directors

SECTION 1. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by statute or the Certificate of Incorporation directed or required to be exercised or done by the stockholders.

SECTION 2. Number, Qualifications, Election and Term of Office. The number of directors constituting the initial Board of Directors shall be three. Thereafter, the number of directors may be fixed, from time to time, by the affirmative vote of a majority of the entire Board of Directors or by action of the stockholders of the Corporation. Any decrease in the number of directors shall be effective at the time of the next succeeding annual meeting of stockholders unless

there shall be vacancies in the Board of Directors, in which case such decrease may become effective at any time prior to the next succeeding annual meeting to the extent of the number of such vacancies. Directors need not be stockholders. Except as otherwise provided by statute or these By-Laws, the directors (other than members of the initial Board of Directors) shall be elected at the annual meeting of stockholders. Each director shall hold office until his successor shall have been elected and qualified, or until his death, or until he shall have resigned, or have been removed, as hereinafter provided in these By-Laws.

SECTION 3. Place of Meetings. Meetings of the Board of Directors shall be held at such place or places, within or without the State of Delaware, as the Board of Directors may from time to time determine or as shall be specified in the notice of any such meeting.

SECTION 4. Annual Meeting. The Board of Directors shall meet for the purpose of organization, the election of officers and the transaction of other business, as soon as practicable after each annual meeting of stockholders, on the same day and at the same place where such annual meeting shall be held. Notice of such meeting need not be given. In the event such annual meeting is not so held, the annual meeting of the Board of Directors may be held at such other time or place (within or without the State of Delaware) as shall be specified in a notice thereof given as hereinafter provided in

Section 7 of this Article III.

SECTION 5. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place as the Board of Directors may fix. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting which would otherwise be held on that day shall be held at the same hour on the next succeeding business day. Notice of regular meetings of the Board of Directors need not be given except as otherwise required by statute or these By-Laws.

SECTION 6. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, if one shall have been elected, or by two or more directors of the Corporation or by the President.

SECTION 7. Notice of Meetings. Notice of each special meeting of the Board of Directors (and of each regular meeting for which notice shall be required) shall be given by the Secretary as hereinafter provided in this Section 7, in which notice shall be stated the time and place of the meeting. Except as otherwise required by these By-Laws, such notice need not state the purposes of such meeting. Notice of each such meeting shall be mailed, postage prepaid, to each director, addressed to him at his residence or usual place of business, by firstclass mail, at least two days before the day on which such meeting is to be held, or shall be sent addressed to him at such place by telegraph, cable, telex,

telecopier or other similar means, or be delivered to him personally or be given to him by telephone or other similar means, at least twenty-four hours before the time at which such meeting is to be held. Notice of any such meeting need not be given to any director who shall, either before or after the meeting, submit a signed waiver of notice or who shall attend such meeting, except when he shall attend for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

SECTION 8. Quorum and Manner of Acting. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, and, except as otherwise expressly required by statute or the Certificate of Incorporation or these By-Laws, the act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. In the absence of a quorum at any meeting of the Board of Directors, a majority of the directors present thereat may adjourn such meeting to another time and place. Notice of the time and place of any such adjourned meeting shall be given to all of the directors unless such time and place were announced at the meeting at which the adjournment was taken, in which case such notice shall only be given to the directors who were not present thereat. At any adjourned meeting at which a quorum is present, any business may be

transacted which might have been transacted at the meeting as originally called. The directors shall act only as a Board and the individual directors shall have no power as such.

SECTION 9. Organization. At each meeting of the Board of Directors, the Chairman of the Board, if one shall have been elected, or, in the absence of the Chairman of the Board or if one shall not have been elected, the President (or, in his absence, another director chosen by a majority of the directors present) shall act as chairman of the meeting and preside thereat. The Secretary or, in his absence, any person appointed by the chairman shall act as secretary of the meeting and keep the minutes thereof.

SECTION 10. Resignations. Any director of the Corporation may resign at any time by giving written notice of his resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 11. Vacancies. Any vacancy in the Board of Directors, whether arising from death, resignation, removal (with or without cause), an increase in the number of directors or any other cause, may be filled by the vote of a majority of the directors then in office, though less than a quorum, or by the sole remaining director or by the stockholders

at the next annual meeting thereof or at a special meeting thereof. Each director so elected shall hold office until his successor shall have been elected and qualified.

SECTION 12. Removal of Directors. Any director may be removed, either with or without cause, at any time, by the holders of a majority of the voting power of the issued and outstanding capital stock of the Corporation entitled to vote at an election of directors.

SECTION 13. Compensation. The Board of Directors shall have authority to fix the compensation, including fees and reimbursement of expenses, of directors for services to the Corporation in any capacity.

SECTION 14. Committees. The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate one or more committees, including an executive committee, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In addition, in the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

Except to the extent restricted by statute or the Certificate of Incorporation, each such committee, to the extent provided in the resolution creating it, shall have and may exercise all the powers and authority of the Board of Directors and may authorize the seal of the Corporation to be affixed to all papers which require it. Each such committee shall serve at the pleasure of the Board of Directors and have such name as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors.

SECTION 15. Action by Consent. Unless restricted by the Certificate of Incorporation, any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board of Directors or such committee, as the case may be.

SECTION 16. Telephonic Meeting. Unless restricted by the Certificate of Incorporation, any one or more members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at a meeting.

ARTICLE IV

Officers

SECTION 1. Number and Qualifications. The officers of the Corporation shall be elected by the Board of Directors or by the stockholders and shall include the President, one or more Vice-Presidents, the Secretary and the Treasurer. If the Board of Directors or the stockholders wish, it either may also elect as an officer of the Corporation a Chairman of the Board and may elect other officers (including one or more Assistant Treasurers and one or more Assistant Secretaries) as may be necessary or desirable for the business of the Corporation. Any two or more offices may be held by the same person, and no officer except the Chairman of the Board need be a director. Each officer shall hold office until his successor shall have been duly elected and shall have qualified, or until his death, or until he shall have resigned or have been removed, as hereinafter provided in these By-Laws.

SECTION 2. Resignations. Any officer of the Corporation may resign at any time by giving written notice of his resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

SECTION 3. Removal. Any officer of the Corporation may be removed, either with or without cause, at any time, by the Board of Directors at any meeting thereof.

SECTION 4. Chairman of the Board. The Chairman of the Board, if one shall have been elected, shall be a member of the Board, an officer of the Corporation and, if present, shall preside at each meeting of the Board of Directors or the stockholders. He shall advise and counsel with the President, and in his absence with other executives of the Corporation, and shall perform such other duties as may from time to time be assigned to him by the Board of Directors.

SECTION 5. The President. The President shall be the chief executive officer of the Corporation. He shall, in the absence of the Chairman of the Board or if a Chairman of the Board shall not have been elected, preside at each meeting of the Board of Directors or the stockholders. He shall perform all duties incident to the office of President and chief executive officer and such other duties as may from time to time be assigned to him by the Board of Directors.

SECTION 6. Vice-President. Each Vice-President shall perform all such duties as from time to time may be assigned to him by the Board of Directors or the President. At the request of the President or in his absence or in the event of his inability or refusal to act, the Vice-President, or if there shall be more than one, the Vice-Presidents in the order determined by the Board of Directors (or if there

be no such determination, then the Vice-Presidents in the order of their election), shall perform the duties of the President, and, when so acting, shall have the powers of and be subject to the restrictions placed upon the President in respect of the performance of such duties.

SECTION 7. Treasurer. The Treasurer shall

(a) have charge and custody of, and be responsible for, all the funds and securities of the Corporation;

(b) keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation;

(c) deposit all moneys and other valuables to the credit of the Corporation in such depositories as may be designated by the Board of Directors or pursuant to its direction;

(d) receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever;

(e) disburse the funds of the Corporation and supervise the investments of its funds, taking proper vouchers therefor;

(f) render to the Board of Directors, whenever the Board of Directors may require, an account of the financial condition of the Corporation; and

(g) in general, perform all duties incident to

the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 8. Secretary. The Secretary shall

(a) keep or cause to be kept in one or more books provided for the purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors and the stockholders;

(b) see that all notices are duly given in accordance with the provisions of these By-Laws and as required by law;

(c) be custodian of the records and the seal of the Corporation and affix and attest the seal to all certificates for shares of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal;

(d) see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and

(e) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 9. The Assistant Treasurer. The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence or of the Treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties as from time to time may be assigned by the Board of Directors.

SECTION 10. The Assistant Secretary. The Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties as from time to time may be assigned by the Board of Directors.

SECTION 11. Officers' Bonds or Other Security. If required by the Board of Directors, any officer of the Corporation shall give a bond or other security for the faithful performance of his duties, in such amount and with such surety as the Board of Directors may require.

SECTION 12. Compensation. The compensation of the officers of the Corporation for their services as such officers shall be fixed from time to time by the Board of Directors.

An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that he is also a director of the Corporation.

ARTICLE V

Stock Certificates and Their Transfer

SECTION 1. Stock Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by, the Chairman of the Board or the President or a Vice-President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by him in the Corporation. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restriction of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in Section 202 of the General Corporation Law of the State of Delaware, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to

each stockholder who so requests the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

SECTION 2. Facsimile Signatures. Any of or all the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

SECTION 3. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen, or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen, or destroyed certificate or certificates, or his legal representative, to give the Corporation a bond in such sum as it may direct sufficient to indemnify it against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

SECTION 4. Transfers of Stock. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its records; provided, however, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer. Whenever any transfer of stock shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of transfer if, when the certificates are presented to the Corporation for transfer, both the transferor and the transferee request the Corporation to do so.

SECTION 5. Transfer Agents and Registrars. The Board of Directors may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

SECTION 6. Regulations. The Board of Directors may make such additional rules and regulations, not inconsistent with these By-Laws, as it may deem expedient concerning the issue, transfer and registration of certificates for shares of stock of the Corporation.

SECTION 7. Fixing the Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any

adjournment thereof, or to express consent to corporate action in writing without a meeting, 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 nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders 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 8. Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments a person registered on its records as the owner of shares of stock, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VI

Indemnification of Directors and Officers

SECTION 1. General. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to

believe that his conduct was unlawful.

SECTION 2. Derivative Actions. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

SECTION 3. Indemnification in Certain Cases. To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article VI, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

SECTION 4. Procedure. Any indemnification under Sections 1 and 2 of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in such Sections 1 and 2. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by the stockholders.

SECTION 5. Advances for Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of

an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall be ultimately determined that he is entitled to be indemnified by the Corporation as authorized in this Article VI.

SECTION 6. Rights Not-Exclusive. The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any law, by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

SECTION 7. Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article VI.

SECTION 8. Definition of Corporation. For the purposes of this Article VI, references to "the Corporation" include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as he would if he had served the resulting or surviving corporation in the same capacity.

ARTICLE VII

General Provisions

SECTION 1. Dividends. Subject to the provisions of statute and the Certificate of Incorporation, dividends upon the shares of capital stock of the Corporation may be declared by the Board of Directors at any regular or special meeting. Dividends may be paid in cash, in property or in shares of stock of the Corporation, unless otherwise provided by statute or the Certificate of Incorporation.

SECTION 2. Reserves. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors may, from time to time, in its absolute discretion,

think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors may think conducive to the interests of the Corporation. The Board of Directors may modify or abolish any such reserves in the manner in which it was created.

SECTION 3. Seal. The seal of the Corporation shall be in such form as shall be approved by the Board of Directors.

SECTION 4. Fiscal Year. The fiscal year of the Corporation shall be fixed, and once fixed, may thereafter be changed, by resolution of the Board of Directors.

SECTION 5. Checks, Notes, Drafts, Etc. All checks, notes, drafts or other orders for the payment of money of the Corporation shall be signed, endorsed or accepted in the name of the Corporation by such officer, officers, person or persons as from time to time may be designated by the Board of Directors or by an officer or officers authorized by the Board of Directors to make such designation.

SECTION 6. Execution of Contracts, Deeds, Etc. The Board of Directors may authorize any officer or officers, agent or agents, in the name and on behalf of the Corporation to enter into or execute and deliver any and all deeds, bonds, mortgages, contracts and other obligations or instruments, and such authority may be general or confined to specific instances.

SECTION 7. Voting of Stock in Other Corporations.

Unless otherwise provided by resolution of the Board of Directors, the Chairman of the Board or the President, from time to time, may (or may appoint one or more attorneys or agents to) cast the votes which the Corporation may be entitled to cast as a shareholder or otherwise in any other corporation, any of whose shares or securities may be held by the Corporation, at meetings of the holders of the shares or other securities of such other corporation. In the event one or more attorneys or agents are appointed, the Chairman of the Board or the President may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent. The Chairman of the Board or the President may, or may instruct the attorneys or agents appointed to, execute or cause to be executed in the name and on behalf of the Corporation and under its seal or otherwise, such written proxies, consents, waivers or other instruments as may be necessary or proper in the circumstances.

ARTICLE VIII

Amendments

These By-Laws may be amended or repealed or new by-laws adopted (a) by action of the stockholders entitled to vote thereon at any annual or special meeting of stockholders or (b) if the Certificate of Incorporation so provides, by action of the Board of Directors at a regular or special meeting thereof. Any by-law made by the Board of Directors

may be amended or repealed by action of the stockholders
at any annual or special meeting of stockholders.

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"HJ KELLER HOLDING COMPANY", A FLORIDA CORPORATION,

"MCKINNEY DRILLING COMPANY, LLC", A TEXAS LIMITED LIABILITY
COMPANY,

"BENCOR GLOBAL, INC.", A DELAWARE CORPORATION,

"EB KELLER HOLDING COMPANY", A FLORIDA CORPORATION,

WITH AND INTO "HAYWARD BAKER, INC." UNDER THE NAME OF
"HAYWARD BAKER, INC.", A CORPORATION ORGANIZED AND EXISTING
UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED
IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF DECEMBER, A.D. 2019,
AT 6:43 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF
THE AFORESAID CERTIFICATE OF MERGER IS THE FIRST DAY OF JANUARY,
A.D. 2020 AT 12:01 O'CLOCK A.M.

A handwritten signature in black ink, appearing to read "JBullock", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

Jeffrey W. Bullock, Secretary of State

907488 8100M
SR# 20198895725

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204314138
Date: 12-30-19

STATE OF DELAWARE
CERTIFICATE OF MERGER

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:43 PM 12/27/2019
FILED 06:43 PM 12/27/2019
SR 20198895725 - File Number 907488

Pursuant to Title 8, Section 252 and Title 8, Section 264(c) of the Delaware General Corporation Law, the undersigned corporation executed the following Certificate of Merger:

FIRST: The name of the surviving corporation is Hayward Baker, Inc., a Delaware corporation. The names of the corporations being merged into this surviving corporation are Bencor Global, Inc., a Delaware corporation, EB Keller Holding Company, a Florida corporation, and HJ Keller Holding Company, a Florida corporation. The name of the limited liability company being merged into this surviving corporation is McKinney Drilling Company, LLC, a Texas limited liability company.

SECOND: The Agreement of Merger has been approved, adopted, certified, executed and acknowledged by each of the constituent entities pursuant to Title 8, Section 252 and Title 8, Section 264(c) of the General Corporation Law of the State of Delaware.

THIRD: The name of the surviving corporation is Hayward Baker, Inc., a Delaware corporation.

FOURTH: The Certificate of Incorporation of the surviving corporation shall be amended and restated in the form attached hereto as Exhibit A.

FIFTH: The authorized stock and par value of EB Keller Holding Company, a non-Delaware corporation, is 1,000 shares of common stock with \$0.001 par value per share. The authorized stock and par value of HJ Keller Holding Company, a non-Delaware corporation, is 1,000 shares of common stock with \$0.001 par value per share.

SIXTH: The merger is to become effective on January 1, 2020, at 12:01 AM Eastern Standard Time.

SEVENTH: The Agreement of Merger is on file at 7550 Teague Road, Suite 300, Hanover, Maryland, 21076, an office of the surviving corporation.

EIGHTH: A copy of the Agreement of Merger will be furnished by the surviving corporation on request, without cost, to any stockholder of the constituent corporations or any member of the constituent limited liability company.

IN WITNESS WHEREOF, said surviving corporation has caused this certificate to be signed by an authorized officer, the 27th day of December, A.D., 2019

By: 
Authorized Officer

Name: DAVID T. PEITSCH
Print or Type

Title: ASSISTANT SECRETARY

Exhibit A

**RESTATED CERTIFICATE OF INCORPORATION
OF
HAYWARD BAKER, INC.**

FIRST: The name of the Corporation is Keller North America, Inc.

SECOND: The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, including, without limitation, the carrying on of the business of specialist foundation contracting work for the building industry.

FOURTH: The total number of shares which the Corporation shall have authority to issue is 1,000 shares of Common Stock, par value \$1.00 per share.

FIFTH: The name and mailing address of the Incorporator is as follows:

Name Mailing Address

Kit Lan Tam One New York Plaza

New York, New York 10004

SIXTH: The board of directors is expressly authorized to adopt, amend or repeal the by-laws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot unless the by-laws of the Corporation shall otherwise provide.

EIGHTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by Statute, and all rights conferred upon stockholders herein are granted subject to this reservation.