

Division of Corporations

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DIVISION OF CORPORATIONS

## Florida Department of State

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## BASIC AMENDMENT

## SHUTTERS HOLDINGS CORPORATION

Certificate of Status	0
Certified Copy	0
Page Count	21
Estimated Charge	\$35.00

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DIVISION OF CORPORATIONS

2000



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

SHUTTERS HOLDINGS CORPORATION  
1315 NEPTUNE DRIVE  
BOYNTON BEACH, FL 33426

SUBJECT: SHUTTERS HOLDINGS CORPORATION  
REF: F99000005554

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Karen Gibson  
Corporate Specialist

FAX Aud. #: R00000019681  
Letter Number: 600A00022904

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**PROFIT CORPORATION**  
**APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO**  
**APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA**  
(Pursuant to s. 607.1504, F.S.)

**SECTION I**  
**(1-3 MUST BE COMPLETED)**

1. SHUTTERS HOLDINGS CORPORATION  
Name of corporation as it appears on the records of the Department of State.
2. DELAWARE 3. 10/27/99  
Incorporated under laws of Date authorized to do business in Florida

**SECTION II**  
**(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)**

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? 04/14/00

5. WEATHERTIGHT BUILDING PRODUCTS, INC.  
Name of corporation after the amendment, adding suffix "corporation" "company" or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation.

6. If the amendment changes the period of duration, indicate new period of duration.

n/a  
New Duration

7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

n/a  
New Jurisdiction

Robert W. Barron  
Signature

04/25/00  
Date

ROBERT W. BARRON  
Typed or printed name

ASSISTANT SECRETARY  
Title

**FILED**  
**00 APR 26 PM 4:58**  
**SECRETARY OF STATE**  
**TALLAHASSEE, FLORIDA**

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State of Delaware

PAGE 1

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "SHUTTERS HOLDINGS CORPORATION", CHANGING ITS NAME FROM "SHUTTERS HOLDINGS CORPORATION" TO "WEATHERIGHT BUILDING PRODUCTS, INC.", FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF APRIL, A.D. 2000, AT 1 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

  
Edward J. Freel, Secretary of State

AUTHENTICATION

0383300

DATE

04-14-00

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**STATE OF DELAWARE**  
**AMENDED AND RESTATED**  
**CERTIFICATE OF INCORPORATION**  
**OF**  
**SHUTTERS HOLDINGS CORPORATION**

This Amended and Restated Certificate of Incorporation of Shutters Holdings Corporation amends and restates, in its entirety, the Certificate of Incorporation of Shutters Holdings Corporation dated October 5, 1999, and filed in the Office of the Secretary of State of Delaware on October 6, 1999, and is being filed pursuant to Sections 242 and 245 of the General Corporation Law of Delaware.

**FIRST:** The name of this Corporation is:

**WEATHERTIGHT BUILDING PRODUCTS, INC.**

**SECOND:** Its registered office in the State of Delaware is to be located at 1209 Orange Street, in the City of Wilmington, County of New Castle, Zip Code 19801. The registered agent in charge thereof 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 Delaware.

**FOURTH:** The period of duration of the Corporation is perpetual.

**FIFTH:**

(A) **Classes of Stock.** The Corporation is authorized to issue two classes of capital stock to be designated, respectively, "Common Stock" and "Preferred Stock", each of which with \$.01 par value per share. The total number of shares which the Corporation is authorized to issue is 286,000 shares, of which (i) 200,000 shares shall be designated as Common Stock, of which (A) 180,000 shares shall be designated Class A Voting Common Stock (the "Class A Common Stock"), and (B) 20,000 shall be designated as Class B Non-Voting Common Stock (the "Class B Common Stock") and (ii) 86,000 shares shall be designated as Preferred Stock, all of which shares shall be designated Series A Convertible Preferred Stock ("Series A Preferred Stock"). As used herein, the term "Common Stock" used without reference to the Class A Common Stock and/or Class B Common Stock, means the shares of Common Stock, without distinction as to class or series.

(B) **Rights, Preferences and Privileges and Qualifications, Limitations and Restrictions of Capital Stock.** The rights, preferences and privileges and qualifications, limitations and restrictions granted to and imposed on the capital stock of the Corporation shall

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be as set forth below in this Article V. References hereinafter made to Sections shall mean the Sections contained in this Article V(B).

1. **Definitions.** As used herein, the following terms shall have the following definitions:

(a) "Additional Stock" shall have the meaning set forth in Section 4(c)(ii) hereof.

(b) "Adjusted EBITDA" shall mean, for any relevant period, the Corporation's EBITDA, calculated on a consolidated basis with its subsidiaries, plus all regularly scheduled monthly payments made under that certain amended and restated management agreement dated as of April 17, 2000 by and among Coastline Capital, LLC., the Corporation, and the Subsidiaries of the Corporation.

(c) "Appraised Value" shall have the meaning set forth in Section 8(a) hereof.

(d) "Bylaws" shall mean the Bylaws of the Corporation.

(e) "Common Directors" shall have the meaning set forth in Section 6(b) hereof.

(f) "Common Stock Equivalents" means all options, warrants, rights or other securities convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock.

(g) "Conversion Price" shall have the meaning set forth in Section 4(a)(i) hereof.

(h) "Conversion Rate" shall have the meaning set forth in Section 4(a)(i) hereof.

(i) "Conversion Rights" shall have the meaning set forth in Section 4 hereof.

(j) "Convertible Securities" means any security, whether debt or equity, convertible into or exchangeable for Common Stock.

(k) "Designated Offering" shall have the meaning set forth in Section 4(a)(ii) hereof.

(l) "EBITDA" shall mean, for any period, (i) the sum of the amounts for such period of (A) the net earnings (or loss) after taxes of the Corporation and its subsidiaries on a consolidated basis ("Net Income"), plus (B) federal, state and local income taxes deducted in determining Net Income, plus (C) depreciation and amortization expense which have been deducted in determining Net Income, plus (D) interest expense, plus (E) extraordinary losses

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which have been deducted in determining Net Income, minus (ii) extraordinary gains which have been included in determining Net Income. Each item used in calculating EBITDA shall be determined in accordance with GAPP.

(m) "Effective Price" of shares of Additional Stock means the quotient determined by dividing (i) the total number of such shares of Additional Stock issued or sold, or deemed to have been issued or sold, by the Corporation under Section 4 hereof, into (ii) the consideration received by the Corporation under Section 4 hereof for the issuance of such shares of Additional Stock.

(n) "Fraction" shall have the meaning set forth in Section 8(a) hereof.

(o) "GAAP" shall mean the generally accepted accounting principles set forth in the pronouncements of the American Institute of Certified Public Accountants Accounting Principles Board and Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, as such principles may change from time to time, and in each case when used, GAAP shall be applied on a consistent basis.

(p) "Mandatory Series A Redemption" shall have the meaning set forth in Section 8(a) hereof.

(q) "Mandatory Redemption Date" shall have the meaning set forth in Section 8(b) hereof.

(r) "Mandatory Redemption Notice" shall have the meaning set forth in Section 8(c) hereof.

(s) "Mandatory Redemption Price" shall have the meaning set forth in Section 8(a) hereof.

(t) "Multiple Value" shall have the meaning set forth in Section 8(a) hereof.

(u) "Option" means rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(v) "Original Series A Issue Price" means \$8.14 per share of Series A Preferred Stock (appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series A Preferred Stock).

(w) "Purchase Agreement" means the Securities Purchase Agreement dated as of the Series A Issuance Date, by and among the Corporation, WTB Acquisition Corporation, Safeguard Hurricane Protection Systems, Inc. and Dime Capital Partners, Inc., a New Jersey corporation.

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(x) "Required Holders" means, at any time, the holders of sixty-six and 67/100 percent (66.67%) of the then outstanding shares of Series A Preferred Stock.

(y) "Sales Event" shall have the meaning set forth in Section 3(b) hereof.

(z) "Series A Director" shall have the meaning set forth in Section 6(b) hereof.

(aa) "Series A Issuance Date" means April 17, 2000.

(ab) "Series A Liquidation Preference" means, as to each share of Series A Preferred Stock, the Original Series A Issue Price, plus all accrued, accumulated or declared but unpaid dividends thereon, if any, as adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series A Preferred Stock.

## 2. Dividend Provisions.

(a) General. The holder of each share of Series A Preferred Stock shall be entitled to receive, before any dividend shall be declared and paid upon or set aside for any shares of Common Stock in any such year, out of funds legally available for that purpose, dividends at such rates and upon such terms and conditions as hereinafter set forth.

### (b) Series A Preferred Stock.

(i) From and after the Series A Issuance Date, the holder of each share of Series A Preferred Stock shall be entitled to receive dividends accruing from and after the Series A Issuance Date, at the rate of \$0.41 per share per year (pro-rated based on the actual number of days elapsed in such year and appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series A Preferred Stock). Dividends on Series A Preferred Stock shall be payable in arrears on a quarterly basis on September 30, December 31, March 31 and June 30 of each year, with the first such dividend being payable on June 30, 2000.

(ii) Dividends on shares of Series A Preferred Stock shall accrue on each share from day to day, whether or not earned or declared. Such dividends shall be cumulative (whether or not there shall be funds legally available for payment of such dividends), so that if, at any time, full dividends on the Series A Preferred Stock shall not have been declared and paid or a sum sufficient for payment thereof set apart, then the amount of the deficiency in such dividends shall be fully paid (but without interest) or dividends in such amount shall be declared on the shares of Series A Preferred Stock and a sum sufficient for the payment thereof set aside for such payment, before any dividend shall be declared or paid upon any class of stock ranking as to dividends junior to the Series A Preferred Stock (other than a dividend payable in such junior stock or rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of such junior stock of the Corporation). With respect to rights to



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dividends, the Series A Preferred Stock shall rank prior to the Common Stock and any other class of junior stock.

(iii) Cumulative dividends with respect to a share of Series A Preferred Stock that are accrued, accumulated, payable and/or in arrears shall, upon conversion of such share to Common Stock in accordance with the provisions of Section 4 hereof, be paid to the extent funds are legally available for that purpose and any amounts for which funds are not legally available shall be paid promptly as funds become legally available therefor; any partial payment made as aforesaid shall be made pro rata among the holders of such shares; provided, however, upon a Designated Offering or a Sales Event, in lieu of receiving cash for accrued and unpaid dividends, each holder of Series A Preferred Stock shall have the option of receiving the dividends in the form of additional shares of Class A Common Stock. In that case, the number of shares of Class A Common Stock which a holder of Series A Preferred Stock shall receive shall be determined by dividing the amount of the dividend to which such holder is entitled by the then applicable Conversion Price.

(c) Common Stock. The Corporation shall not declare or pay any dividend or set aside a sum sufficient for such payment, or make any distribution, in respect of the shares of the Common Stock while any share of Series A Preferred Stock is outstanding without first obtaining the approval (by vote or written consent, as provided by law) of the Required Holders. In any such event, the holders of shares of Series A Preferred Stock shall participate with holders of shares of Common Stock on a pro rata basis, based on the number of shares of Common Stock held by each (assuming conversion of all such shares of Series A Preferred Stock into Common Stock on the terms set forth herein), in the receipt of such dividends when, as and if declared by the Board of Directors (other than a dividend payable in Common Stock or other securities or rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock), which dividends shall be in addition to and not in lieu of the dividends on shares of Series A Preferred Stock set forth in Section 2(b).

### 3. Liquidation Preference.

(a) Priority. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets of the Corporation legally available for distribution to its shareholders, shall be distributed in the following order of priority:

(i) The holders of shares of Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution in such liquidation, dissolution or winding up of any of the assets of the Corporation to the holders of shares of Common Stock and any other class of junior stock, by reason of their ownership thereof, an amount per share equal to the greater of: (A) the Series A Liquidation Preference for each outstanding share of Series A Preferred Stock then held by them, or (B) the amount per share that each holder of shares of Common Stock would be entitled to receive (assuming the conversion by all the holders of the Series A Preferred Stock into Common Stock on the terms set forth herein). If upon the occurrence of any such distribution, the assets of the Corporation thus distributed among the holders of shares of Series A Preferred Stock shall be insufficient to permit the payment to such

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holders of the full aforesaid preferential amounts, then the entire assets of the Corporation legally available for distribution shall be distributed on a pro rata basis among the holders of shares of Series A Preferred Stock (in proportion to the number of shares of Series A Preferred Stock held by each such holder).

(ii) After the distributions described in Section 3(a)(i) hereof have been made, the remaining assets of the Corporation, to the extent available, shall be distributed among the holders of shares of Common Stock pro rata based on the number of shares of Common Stock held by each.

(b) Consolidation, Merger, Etc. A consolidation or merger of the Corporation with or into any other corporation or corporations, or a sale, conveyance or disposition of all or substantially all of the assets of the Corporation or the effectuation by the Corporation of a transaction or series of related transactions in which more than 50% of the voting power of the Corporation is disposed of, whether through a sale of stock or otherwise (collectively, a "Sales Event"), shall each be deemed to be a liquidation, dissolution or winding up within the meaning of this Section 3. If the Required Holders elect to accept non-cash consideration upon the occurrence of a Sales Event, the value of any such non-cash consideration shall be determined by the Required Holders.

4. Conversion. The holders of shares of Series A Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert.

(i) Subject to Section 4(a)(ii) hereof, each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for the Series A Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock (the "Conversion Rate") as is determined by dividing the Original Series A Issue Price by the conversion price (the "Conversion Price") for the Series A Preferred Stock at the time in effect. The initial Conversion Price per share for shares of Series A Preferred Stock shall be the Original Series A Issue Price; provided, however, that the Conversion Price for the Series A Preferred Stock shall be subject to adjustment as set forth in Section 4(c) hereof.

(ii) Each share of Series A Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Common Stock at the Conversion Rate in effect for the Series A Preferred Stock immediately prior to the closing of the first sale by the Corporation of shares of its Common Stock in a firmly underwritten public offering registered under the Securities Act of 1933, as amended, with an aggregate minimum gross offering price to the public of \$10,000,000, at a per share price (determined on a common stock equivalent basis) equal to no less than four (4) times the Series A Liquidation Preference then in effect (appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences, if any)(a "Designated Offering").

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(b) Mechanics of Conversion. Before any holder of shares of Series A Preferred Stock shall be entitled to convert any of such shares into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the office of the Corporation or of any transfer agent for the Series A Preferred Stock, and shall give written notice by mail, postage prepaid, or hand delivery, to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holders of shares of Series A Preferred Stock, or to the nominee or nominees of such holders, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of any holder tendering the Series A Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Common Stock issuable upon such conversion of the Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until immediately prior to the closing of such sale of securities.

(c) Conversion Price Adjustments of Series A Preferred Stock. The Conversion Price of the Series A Preferred Stock shall be subject to adjustment from time to time as follows:

(i) (A) Upon each issuance (or deemed issuance pursuant to the provisions hereof) by the Corporation of any Additional Stock after the Series A Issuance Date, without consideration or for an Effective Price per share less than the Conversion Price for the Series A Preferred Stock in effect immediately prior to the issuance (or deemed issuance) of such Additional Stock, then the Conversion Price for the Series A Preferred Stock in effect immediately prior to each issuance (or deemed issuance) shall be adjusted to a price determined by multiplying such Conversion Price by a fraction, (1) the numerator of which shall be the number of shares of Common Stock and Common Stock Equivalents outstanding immediately prior to such issuance plus the number of shares of Common Stock which the aggregate consideration received (or deemed received) by the Corporation for such issuance would purchase at such Conversion Price; and (2) the denominator of which shall be the number of shares of Common Stock and Common Stock Equivalents outstanding immediately after such issuance.

(B) No adjustment of the Conversion Price for the Series A Preferred Stock shall be made in an amount less than one-half of one cent (\$0.005) per share, provided that any adjustments which are not required to be made by reason of this

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sentence shall be carried forward and shall be taken into account in any subsequent adjustment to the Conversion Price. No adjustment of the Conversion Price for the Series A Preferred Stock pursuant to this Section 4(c)(i) shall have the effect of increasing such Conversion Price for the Series A Preferred Stock above the Conversion Price in effect immediately prior to such adjustment.

(C) In the case of the issuance of securities of the Corporation for cash, the amount of consideration received by the Corporation for such securities shall be deemed to be the amount of cash paid therefor before deducting any discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

(D) In the case of the issuance of securities of the Corporation for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to have a dollar value equal to the fair market value of such non-cash consideration, irrespective of any accounting treatment thereof, as determined jointly by the Board of Directors and the Required Holders.

(E) In the case of the issuance (whether before, on or after the Series A Issuance Date) of Options or Convertible Securities, the following provisions shall apply for all purposes of this Section 4(c)(i) and Section 4(c)(ii) hereof:

(1) With respect to Options to purchase Common Stock, the aggregate maximum number of shares of Common Stock deliverable upon exercise of such Options shall be deemed to have been issued at the time such Options were issued and for a consideration equal to the consideration (determined in the manner provided in Section 4(c)(i)(C) and Section 4(c)(i)(D) hereof), if any, received by the Corporation for such Options plus the minimum exercise price provided in such Options for Common Stock covered thereby.

(2) With respect to Convertible Securities and Options to purchase Convertible Securities, the aggregate maximum number of shares of Common Stock deliverable upon the conversion or exchange of any such Convertible Securities and the aggregate maximum number of shares of Common Stock issuable upon the exercise of such Options to purchase Convertible Securities and the subsequent conversion or exchange of such Convertible Securities shall be deemed to have been issued at the time such Convertible Securities or such Options were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such Convertible Securities and Options, plus the minimum additional consideration, if any, to be received by the Corporation upon the conversion or exchange of such Convertible Securities or the exercise of such Options and the conversion or exchange of the Convertible Securities issuable upon exercise of such Options (the consideration in each case to be determined in the manner provided in Section 4(c)(i)(C) and 4(c)(i)(D) hereof).

(3) In the event of any change in the number of shares of Common Stock deliverable, or in the consideration payable to the Corporation, upon exercise of such Options or upon conversion or exchange of such Convertible

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Securities, including, but not limited to, a change resulting from the anti-dilution provisions thereof, the Conversion Price of the Series A Preferred Stock, to the extent in any way affected by or computed using such Options or Convertible Securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such Options or the conversion or exchange of such Convertible Securities.

(4) Upon the expiration or termination of any such Options or any such rights to convert or exchange Convertible Securities, the Conversion Price of the Series A Preferred Stock, to the extent in any way affected by or computed using such Options or Convertible Securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Options and Convertible Securities which remain in effect) that were actually issued upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities.

(5) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Section 4(c)(i)(E)(1) and (2) hereof shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 4(c)(i)(E)(3) or (4) hereof.

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 4(c)(i)(E) hereof) by the Corporation after the Series A Issuance Date other than:

(A) Common Stock issued pursuant to a transaction described in Section 4(c)(iii) hereof;

(B) Common Stock issued or issuable upon conversion of shares of Series A Preferred Stock;

(C) Options to purchase 3,000 shares of the Class B Common Stock issued to Robert H. Smith, and any shares of common stock issued upon exercise of any such options, and up to 5,800 shares of Class B Common Stock to be issued to Robert H. Smith pursuant to Exhibit D of that certain Asset Purchase Agreement dated as of April 13, 2000 by and among WeatherTight Building Products, Inc., WeatherTight Building Products West, Inc. and Robert H. Smith (the "Smith Option"); and

(D) Warrants to purchase 20,000 shares of Class A Common Stock issued to Dime Capital Partners, Inc. (the "Dime Warrants").

(iii) In the event the Corporation at any time or from time to time after the Series A Issuance Date fixes a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of shares of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or Common Stock Equivalents without payment of any consideration by such holder for the additional shares of Common Stock or Common Stock Equivalents (including the additional

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shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend, distribution, split or subdivision if no record date is fixed), the Conversion Price of the Series A Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series A Preferred Stock shall be increased in proportion to such increase in the aggregate number of shares of Common Stock or Common Stock issuable with respect to Common Stock Equivalents, with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 4(c)(i)(E) hereof.

(iv) If the number of shares of Common Stock outstanding at any time after the Series A Issuance Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Price for the Series A Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of Series A Preferred Stock shall be decreased in proportion to such decrease in the outstanding shares of Common Stock.

(d) Other Distributions. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 4(c)(iii) hereof, then, in each such case for the purpose of this Section 4(d), the holders of shares of Series A Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were holders of the number of shares of Common Stock into which their shares of Series A Preferred Stock are convertible as of the record date fixed for the determination of the holders of shares of Common Stock entitled to receive such distribution.

(e) Recapitalization. If at any time or from time to time there shall be a recapitalization of Common Stock (other than a subdivision, combination or Sales Event provided for in Section 3 hereof), provision shall be made so that each holder of shares of Series A Preferred Stock shall thereafter be entitled to receive, upon conversion of the Series A Preferred Stock, the number of shares of stock or other securities or property of the Corporation or otherwise, receivable upon such recapitalization by a holder of the number of shares of Common Stock into which such shares of Series A Preferred Stock could have been converted immediately prior to such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of shares of Series A Preferred Stock after the recapitalization to the end that the provisions of this Section 4 (including adjustments of the Conversion Price then in effect and the number of shares purchasable upon conversion of the Series A Preferred Stock) shall be applicable after that event as nearly equivalent as may be practicable.

(f) No Impairment. The Corporation will not, by amendment of this Certificate of Incorporation or through any reorganization, recapitalization or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be

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necessary or appropriate in order to protect the Conversion Rights of the holders of shares of Series A Preferred Stock against impairment.

(g) No Fractional Shares. No fractional shares shall be issued upon conversion of the Series A Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share, and there shall be no payment to a holder of shares of Series A Preferred Stock for any such rounded fractional share. Whether or not fractional shares result from such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(h) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price of the Series A Preferred Stock pursuant to this Section 4, the Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of shares of Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of shares of Series A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustment and readjustment, (ii) the Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of Series A Preferred Stock.

(i) Notices of Record Date. In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of shares of Series A Preferred Stock, at least twenty (20) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(j) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of Series A Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series A Preferred Stock, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Series A Preferred Stock, then in addition to such other remedies as shall be available to the holder of such shares of Series A Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

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(k) Notices. Any notice required by the provisions of this Section 4 to be given to the holders of shares of Series A Preferred Stock shall be deemed given when received if delivered via courier or sent by facsimile, by telex, or by United States mail, postage prepaid, and addressed to each holder of record at his, her or its address appearing on the books of the Corporation.

5. Status of Converted Stock. In the event any shares of Series A Preferred Stock are converted pursuant to Section 4 hereof, the shares so converted shall be canceled, retired and eliminated and shall not be reissued by the Corporation. This Certificate of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

6. Voting Rights.

(a) General. Each holder of a share of Series A Preferred Stock shall have the right to one vote for each share of Class A Common Stock into which such Series A Preferred Stock could then be converted (with any fractional share determined on an aggregate conversion basis being rounded up to the nearest whole share). Except as otherwise provided in this Certificate of Incorporation or required by applicable law, the holders of shares of Series A Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of shares of Class A Common Stock, and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation and applicable law, and shall vote, together with the holders of shares of Class A Common Stock (and any other class or series of stock entitled to vote together as one class with the Class A Common Stock), with respect to any question upon which holders of shares of Common Stock have the right to vote, as a single class, including, but not limited to, actions amending the Certificate of Incorporation to increase the number of authorized shares of Common Stock.

(b) Board of Directors. The Board of Directors of the Corporation shall consist of a maximum of seven (7) directors. At each annual meeting of the shareholders of the Corporation, and at each special meeting of the shareholders of the Corporation called for the purpose of electing directors of the Corporation, and at any time at which shareholders of the Corporation shall have the right to, or shall, vote for or consent in writing to the election of directors of the Corporation, then, and in each such event, (i) the holders of record of shares of Series A Preferred Stock voting together as a separate class shall have the right, but not the obligation, to elect one (1) director, who shall be nominated by the holders of record of a majority of the shares of Series A Preferred Stock then outstanding (the "Series A Director"), and (ii) the holders of record of shares of Class A Common Stock and Series A Preferred Stock voting together as a single class shall elect the remaining directors, all of whom shall be nominated by the holders of record of a majority of the shares of Class A Common Stock and Series A Preferred Stock then outstanding (collectively, the "Common Directors"). At any meeting called for the purpose of electing directors, the presence in person or by proxy of (i) the holders of record of a majority of the shares of Series A Preferred Stock then outstanding, in the case of the election of the Series A Director and (ii) the holders of record of a majority of the shares of each of the Class A Common Stock and Series A Preferred Stock then outstanding, in



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the case of the election of a Common Director, shall constitute a quorum for the election of directors to be elected by such holders. A vacancy in any directorship elected by the holders of record of shares of Series A Preferred Stock (including a vacancy from an earlier decision not to elect a Series A Director) shall be filled only by vote or written consent of the holders of record of shares of Series A Preferred Stock, in the manner set forth herein. A vacancy in any directorship elected by the holders of record of shares of Series A Preferred Stock and Class A Common Stock shall be filled only by vote or written consent of the holders of record of shares of Series A Preferred Stock and Class A Common Stock, in the manner set forth herein. Each Common Director who shall have been elected as provided in this Section 6 may be removed during his/her term of office, whether with or without cause, only by the holders of record of a majority of the shares of Class A Common Stock and Series A Preferred Stock then outstanding, and each Series A Director may be removed during his/her term of office, whether with or without cause, by the holders of record of a majority of the shares of Series A Preferred Stock then outstanding. Each Common Director and the Series A Director shall be entitled to one (1) vote on all matters on which directors are entitled to vote.

(c) No Series A Preferred Stock. If there are no shares of Series A Preferred Stock outstanding, the Board of Directors shall be elected by a plurality of the votes cast at an election.

7. Protective Provisions.

So long as any share of Series A Preferred Stock is outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the Required Holders, voting separately as a class:

(a) Certain Changes. Sell, convey, transfer, abandon, lease or otherwise dispose of or encumber (whether voluntarily or involuntarily) all or substantially all of its property or business, or cause or permit any of its subsidiaries to sell, convey, transfer, abandon, lease or otherwise dispose of or encumber all or substantially all of its property or business, or effect or cause to effect a change in the nature of its business or the business of any of its subsidiaries; or

(b) Purchase or Lease. Purchase, lease or otherwise acquire, or cause or permit any of its subsidiaries to purchase, lease or otherwise acquire, all or substantially all of the properties or assets of any other corporation or entity (whether through the purchase of stock or assets), other than the acquisition of certain of the assets and business of WeatherTight Building Products, a Florida corporation (the "Target"), pursuant to that certain Asset Purchase Agreement by and among the Target and WTBPA Acquisition Corporation; or

(c) Merge or Consolidate. Merge or consolidate with or into any other corporation, corporations, entity or entities, or cause or permit any of its subsidiaries to merge or consolidate with or into any other corporation, corporations, entity or entities; or

(d) Liquidation, Dissolution. Voluntarily dissolve, liquidate, or wind up or carry out any partial liquidation or dissolution or transaction in the nature of a partial liquidation

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or dissolution, or cause or permit any of its subsidiaries to voluntarily dissolve, liquidate, or wind up or carry out any partial liquidation or dissolution or transaction in the nature of a partial liquidation or dissolution; or

(e) Increase in Authorized Common Stock or Preferred Stock. Increase the authorized number of shares of Common Stock or Series A Preferred Stock; or

(f) Issuance of Stock. Issue any shares of Common Stock or any class or series of capital stock, options, warrants, bonds, debentures, notes or other obligations or securities convertible into or exchangeable for, or having optional rights to purchase, Common Stock (except Common Stock issued or issuable upon conversion of shares of Series A Preferred Stock and Common Stock issuable upon exercise of the Smith Option and the Dime Warrants), or permit any of its subsidiaries to issue any class or series of capital stock, options, warrants, bonds, debentures, notes or other obligations or securities convertible into or exchangeable for, or having optional rights to purchase, any capital stock of any such subsidiary; or

(g) Reclassification of Stock. Reclassify the shares of Common Stock or any other shares of any class or series of capital stock hereafter created junior to the Series A Preferred Stock into shares of any class or series of capital stock (i) ranking, either as to voting, payment of dividends, distribution of assets or redemptions, prior to or on a parity with the Series A Preferred Stock, or (ii) which in any manner adversely affects the holders of shares of Series A Preferred Stock; or

(h) Creation of New Stock. In any manner authorize, create or issue, or obligate itself to issue, any class or series of capital stock, options, warrants, bonds, debentures, notes or other obligations or securities convertible into or exchangeable for, or having optional rights to purchase any, securities of the Corporation, (i) ranking, either as to voting, payment of dividends, distribution of assets or redemptions, prior to or on a parity with the Series A Preferred Stock, or (ii) which in any manner adversely affect the holders of shares of Series A Preferred Stock, or (iii) having rights similar to any of the rights of the Series A Preferred Stock; or

(i) Redemption of Capital Stock. Repurchase or redeem any share of Common Stock; or

(j) Rights, Etc. of Series A Preferred Stock. In any manner, alter or change the rights, preferences and privileges and qualifications, limitations and restrictions of the Series A Preferred Stock or Common Stock; or

(k) Amendment of Bylaws or Certificate of Incorporation. Amend, alter or repeal any of the provisions of the Bylaws or this Certificate of Incorporation.

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8. Mandatory Redemption of Series A Preferred Stock.

(a) Exercise of Option. To the extent it is then lawfully able to do so, and subject to the provisions of Sections 8(d) and 8(e) below, at any time and from time to time on or after the fifth (5th) anniversary of the Series A Issuance Date, upon the written request of the Required Holders that all or some of the shares held by such holders be redeemed (a "Mandatory Series A Redemption"), the Corporation shall redeem from the holders requesting such redemption (including those holders who later request redemption on a timely basis as hereinafter provided) the outstanding shares of Series A Preferred Stock specified in said request upon payment in cash in respect of each share redeemed of an amount equal to the "Mandatory Redemption Price". As used herein, the "Mandatory Redemption Price" shall equal the greater of any of (i) the "Multiple Value", plus all accrued, accumulated or declared but unpaid dividends thereon, if any, until the Mandatory Redemption Date, (ii) the "Appraised Value", plus all accrued, accumulated or declared but unpaid dividends thereon, if any, until the Mandatory Redemption Date, or (iii) the Series A Liquidation Preference. The "Multiple Value" per share shall be an amount equal to (A) the sum of (1) four and one-half (4.5) times the average of the Corporation's Adjusted EBITDA for the two fiscal years ended immediately prior to the date of the request for Mandatory Series A Redemption, plus (2) cash and other short term securities and short term investments existing on the Mandatory Redemption Date, less (3) the principal portion of funded interest bearing debt existing on the Mandatory Redemption Date, multiplied by (B) a fraction (the "Fraction"), the numerator of which shall be the aggregate number of shares of Common Stock into which all shares of then outstanding Series A Preferred Stock could convert pursuant to Section 4(a) hereof on the Mandatory Redemption Date, and the denominator of which shall be the sum of the numerator and all shares of Common Stock then outstanding on the date of the redemption request, and divided by (C) the number of shares of Series A Preferred Stock outstanding on the Mandatory Redemption Date. The "Appraised Value" per share shall be an amount equal to (A) the appraised value of the Corporation on a going concern basis as of the date of the redemption request (without giving effect to the impact of the redemption of the outstanding Series A Preferred Stock and without any discount for lack of liquidity or minority status) determined by an independent appraiser mutually acceptable to the Corporation and the Required Holders, multiplied by (B) the Fraction, and divided by (C) the number of shares of Series A Preferred Stock outstanding on the Mandatory Redemption Date. Upon receipt of any such request as to a Mandatory Series A Redemption, the Corporation shall promptly give written notice of the redemption request to each non-requesting holder of record of the shares of Series A Preferred Stock, postage prepaid, at the post office address last shown on the records of the Corporation. With respect to a Mandatory Series A Redemption, non-requesting holders of shares of Series A Preferred Stock shall have thirty (30) days from the date such notice is mailed to request in writing redemption of their Series A Preferred Stock on the terms contained herein and on the date of redemption set forth in Section 8(b), and all such requests shall be deemed to have been received by the Corporation on the date of the initial request by the Required Holders. The costs, fees and expenses of obtaining an appraisal shall be borne by the Corporation.

(b) Redemption Date. The Corporation shall redeem the shares of Series A Preferred Stock to be redeemed hereunder no later than sixty (60) days after the date of the

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request by the initially requesting holders of shares of Series A Preferred Stock. Such date shall be the "Mandatory Redemption Date" as described herein.

(c) Procedure. At least thirty (30) days prior to the Mandatory Redemption Date, written notice shall be mailed, postage prepaid, to each holder of record of shares of Series A Preferred Stock to be redeemed, at such holder's post office address last shown on the records of the Corporation, notifying such holder of the redemption of such shares to be redeemed at that time, specifying the Mandatory Redemption Date, the Mandatory Redemption Price, and calling upon such holder to surrender to the Corporation, in the manner and at the place designated, such holder's certificate or certificates representing the shares to be redeemed (such notice is hereinafter referred to as the "Mandatory Redemption Notice"). On or after the Mandatory Redemption Date, each holder of shares of Series A Preferred Stock to be redeemed shall surrender such holder's certificate or certificates representing shares to the Corporation, in the manner and at the place designated in the Mandatory Redemption Notice, and thereupon the Mandatory 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 such shares and each surrendered certificate shall be canceled. In the event less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares. From and after the Mandatory Redemption Date, unless there shall have been a default in payment of the Mandatory Redemption Price, all rights of the holders of shares of Series A Preferred Stock designated for redemption in the Mandatory Redemption Notice as holders of shares of Series A Preferred Stock of the Corporation (except the right to receive the Mandatory Redemption Price without interest upon surrender of their certificate or certificates) shall cease with respect to such shares, and such shares shall not subsequently be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever.

(d) Insufficient Funds. If the funds of the Corporation legally available for redemption of shares of Series A Preferred Stock on any Mandatory Redemption Date are insufficient to redeem the total number of shares of Series A Preferred Stock to be redeemed on such date, those funds that are legally available shall be used to redeem the maximum number of shares of Series A Preferred Stock, ratably among the holders of such shares to be redeemed. The shares of Series A Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for redemption of shares of Series A Preferred Stock, such funds shall immediately be used to redeem the balance of the shares which the Corporation has become obligated to redeem, on any Mandatory Redemption Date but which it has not redeemed, at a price per share equal to the Mandatory Redemption Price (as previously determined), plus interest, compounded quarterly and calculated on the basis of a 360-day year, on the Mandatory Redemption Price at the Defined Rate accrued from and after the Mandatory Redemption Date to the date of actual redemption. As used herein, the "Defined Rate" shall mean a rate per annum equal to the rate of interest periodically established and designated by The Dime Savings Bank of New York, FSB from time to time as its prime rate, plus three hundred (300) basis points.

(e) Limitation on Mandatory Series A Redemption. If the aggregate Mandatory Redemption Price payable on a Mandatory Redemption Date exceeds fifty percent

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(50%) of the Corporation's cumulative retained earnings (as adjusted to reflect previous repurchases), calculated in accordance with GAAP consistently applied, on such date, then the Corporation only need redeem the maximum number of shares of Series A Preferred Stock, ratably among the holders of such shares to be redeemed, such that the aggregate Mandatory Redemption Price does not exceed 50% of cumulative retained earnings. The shares of Series A Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. At the end of each fiscal quarter thereafter when the Corporation has generated additional retained earnings, 50% of such additional retained earnings shall immediately be used to redeem the balance of the shares which the Corporation has become obligated to redeem on any Mandatory Redemption Date but which it has not redeemed, at a price per share equal to the Mandatory Redemption Price (as previously determined), plus interest, compounded daily and calculated on the basis of a 360-day year, on the Mandatory Redemption Price at the Defined Rate accrued from and after the Mandatory Redemption Date to the date of actual redemption.

(f) Deposit of Mandatory Redemption Price. On or prior to the Mandatory Redemption Date, the Corporation shall deposit the Mandatory Redemption Price with respect to all shares of Series A Preferred Stock designated for redemption in the Mandatory Redemption Notice and not yet redeemed with a bank or trust company having aggregate capital and surplus in excess of \$50,000,000.00 as a trust fund for the benefit of the respective holders of the shares designated for the redemption and not yet redeemed, with irrevocable instructions and authority to the bank or trust company to pay the Mandatory Redemption Price for such shares to their respective holders on or after the Mandatory Redemption Date upon receipt of notification from the Corporation that such holder has surrendered his stock certificate to the Corporation pursuant to Section 8(c) hereof. Such instructions shall also provide that any funds deposited by the Corporation pursuant to this Section 8(f) for the redemption of shares subsequently converted into shares of Common Stock no later than the third (3rd) day preceding the Mandatory Redemption Date shall be returned to the Corporation forthwith upon such conversion. The balance of any funds deposited by the Corporation pursuant to this Section 8(f) remaining unclaimed at the expiration of two (2) years following the Mandatory Redemption Date shall be returned to the Corporation upon its request expressed in a resolution of its Board of Directors.

## II Common Stock.

1. Dividend Rights. The holders of shares of Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors, subject to the limitations more fully set forth in Section 2 hereof and the participation rights of the Series A Preferred Stock.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation shall be distributed as provided in Section 3 hereof.

3. Redemption. Common Stock is not redeemable.

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4. Voting Rights. The holder of each share of Class A Common Stock shall have the right to one vote, and shall be entitled to notice of any meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law, except as otherwise provided in Sections 6 and 7 hereof. The holder of each share of Class B Common Stock shall have no voting rights with respect to each share of Class B Common Stock on any matters as to which stockholders of the Corporation are entitled to vote, except as required by law.

**SIXTH:** The name and address of the incorporator are as follows:

<u>Name</u>	<u>Mailing Address</u>
ROBERT W. BARRON	350 E. Las Olas Blvd., Suite 1000 Fort Lauderdale, FL 33301

**SEVENTH:** The names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualified are as follows:


<u>Name</u>	<u>Address</u>
CRAIG STEIN	3000 N.E. 48 <sup>th</sup> Street Lighthouse Point, FL 33064
DAVID STEIN	3000 N.E. 48 <sup>th</sup> Street Lighthouse Point, FL 33064

**EIGHTH:** To the fullest extent permitted by applicable law, a director of the Corporation shall not be liable to the Corporation or its shareholders for monetary damages for an act or omission in the director's capacity as a director, except that this Article Eighth does not eliminate or limit the liability of a director of the Corporation to the extent the director is found liable for: (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law; (iii) under section 174 of the Delaware General Corporation Law, as the same may be amended; or (iv) for any transaction from which the director derived an improper personal benefit. All references in Article Eighth to a "director" shall also be deemed to refer (x) to a member of the governing body of the Corporation which is not authorized to issue capital stock, and (y) to such other person or persons, if any, who, pursuant to a provision of the certificate of incorporation in accordance with Section 141(a) of the Delaware General Corporation Law, as the same may be amended, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this Delaware General Corporation Law, as the same may be amended. Any repeal or amendment of this Article Eighth by the shareholders of the Corporation shall be prospective only and shall not adversely affect

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any limitation on the personal liability of a director of the Corporation arising from an act or omission occurring prior to the time of such repeal or amendment. In addition to the circumstances in which a director of the Corporation is not personally liable as set forth in the foregoing provisions of this Article Eighth, a director shall not be liable to the Corporation or its shareholders to such further extent as permitted by any law hereafter enacted, including without limitation any subsequent amendment to the Delaware Business Corporation Act.

I, the undersigned, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts herein stated are true, and I have accordingly hereunto set my hand this 13th day of April, 2000.

  
ROBERT W. BARRON, Assistant Secretary