



# K 60874

ACCOUNT NO. : 072100000032

REFERENCE : 900058 4332656

AUTHORIZATION : *Patricia Piguet*

COST LIMIT : \$ 87.50

ORDER DATE : July 22, 1998

ORDER TIME : 10:02 AM

ORDER NO. : 900058-005

CUSTOMER NO: 4332656

CUSTOMER: Ms. Martha Satchel  
Anderson & Orcutt  
Suite 2400  
401 East Jackson Street  
Tampa, FL 33602

400002595584--B

DOMESTIC AMENDMENT FILING

NAME: CUTLER MANUFACTURING  
ACQUISITION CORP.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT  
       RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Christopher Smith

EXAMINER'S INITIALS:

FILED  
98 JUL 22 PM 4:25  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

RECEIVED  
98 JUL 22 PM 12:17  
DIVISION OF CORPORATION

*Amendment*  
*07-23-98*  
*DC*

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
RELATING  
TO  
DESIGNATION, PREFERENCES, RIGHTS AND  
LIMITATIONS OF  
SERIES B CUMULATIVE CONVERTIBLE NON-VOTING PREFERRED  
STOCK,  
\$10.00 PAR VALUE,  
OF  
CUTLER MANUFACTURING ACQUISITION CORP.  
(a Florida corporation)**

**FILED**  
98 JUL 22 PM 4:25  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Cutler Manufacturing Acquisition Corp. (the "Corporation"), organized and existing under the laws of the State of Florida, hereby certifies as follows:

1. The name of this Corporation is Cutler Manufacturing Acquisition Corp.
2. That, pursuant to authority conferred upon the Board of Directors by the Articles of Incorporation of the Corporation, and pursuant to the provisions of Section 607.0602 of the Florida Business Corporation Act, as amended, the Board of Directors, by written action, taken on May 4, 1998, to be effective as of January 1, 1998, has adopted a resolution amending Article IV of the Corporation's Articles of Incorporation and providing for the creation and issuance of additional shares of its authorized preferred stock \$10.00 par value, to be designated Series B Cumulative Convertible Non-Voting Preferred Stock, which amendment is as follows and which shall be deemed to be added to said Article IV of the Articles of Incorporation of the Corporation:

A series of the Corporation's authorized class of preferred stock, \$10.00 par value, is hereby established and designated as "Series B Cumulative Convertible Non-Voting Preferred Stock, \$10.00 Par Value," (the "**Series B Preferred Stock**") which series shall consist of 100,000 authorized shares. The preferences and relative, participating, optional or other special rights of, and the qualifications, limitations and restrictions imposed upon the Series B Preferred Stock shall be as follows:

1. *Cash Dividends.*

The holders of shares of the Series B Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor, cumulative cash dividends at a fixed annual rate equal to 7% payable in cash, monthly, on the 1st day of February, 1998, and monthly thereafter, compounded

annually as of January 1 of each year commencing on January 1, 1998. Such dividends shall accrue on each such share from the date of initial issuance thereof whether or not earned or declared so that if such dividend for any previous dividend period at the rate provided for herein shall not have been paid on, or declared and/or set apart for, all shares of Series B Preferred Stock at the time outstanding, the aggregate deficiency shall be cumulative, and compounded annually as of January 1 of each year commencing on January 1, 1998, and shall be fully paid or set apart for payment before any dividends shall be paid or set apart for payment with respect to any other class of preferred or any class of common stock of the Corporation, now or hereafter authorized.

2. *Redemption Rights.*

(a) *Voluntary:* Shares of the Series B Preferred Stock shall be redeemable, in whole or in part, at the option of the Corporation, by resolution of its Board of Directors adopted, at any time, at a price equal to the sum of \$10.00 per share plus all dividends accrued but unpaid with respect to each such share up to the date fixed for redemption. In the event that less than all of the outstanding shares of Series B Preferred Stock are redeemed at any one time, the shares to be redeemed shall be selected in a non-discriminatory manner to be determined by the Board of Directors of the Corporation. Not less than 10 nor more than 60 days prior to the date fixed for redemption of any shares of Series B Preferred Stock, a notice specifying the time and place of such redemption shall be given to all holders of record of shares of Series B Preferred Stock, at their respective addresses as the same shall appear on the stock books of the Corporation, but no failure on the part of the shareholder to receive such notice and no defect in the wording of the notice shall affect the validity of the proceedings adopted with respect to the redemption of any such shares.

(b) *Effect of Redemption:* On the redemption date selected by the Corporation under subsection (a) each shareholder some or all of whose shares of Series B Preferred Stock are being redeemed shall tender such shares for cancellation by the Corporation and against payment of the redemption price. Upon the consummation of any such redemption, each holder of shares of Series B Preferred Stock whose shares have been redeemed shall cease to be a shareholder with respect to such shares, shall have no interest in or claim against the Corporation by virtue thereof and shall have no rights with respect to such shares as are redeemed. Any shares of Series B Preferred Stock received by the Corporation upon redemption shall resume the status of authorized but unissued shares of preferred stock.

3. ***Limited Voting Rights.*** Each issued and outstanding share of Series B Preferred Stock shall entitle the registered holder thereof to one vote on each matter with respect to which a vote is required of the holders of such shares to approve an action contemplated by Section 6, below, or as otherwise may be required by operation of law.

4. ***Priority in the Event of Liquidation or Dissolution.*** In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or otherwise, after payment or provision for payment of the debts and other liabilities of the Corporation and payment in full to the holders of the Corporation's Series A Convertible Cumulative Preferred Stock of the amount of \$10.00 per share and the unpaid dividends accrued thereon and before any distribution shall be made to the holders of any class of the common stock of the Corporation, each holder of Series B Preferred Stock shall be entitled to receive, out of the net assets of the Corporation, the sum of \$10.00 in cash for each share of Series B Preferred Stock so held plus an amount equal to all dividends accrued and unpaid on each such share up to the date fixed for distribution. After payment shall have been made in full to the holders of Series B Preferred Stock, or funds necessary for such payment shall have been set aside in trust for the exclusive benefit of such holders, the holders of the Series B Preferred Stock shall be entitled to no further participation in any distribution of the assets of the Corporation.

5. ***Conversion of Series B Preferred Stock into Common Stock.***  
(a) Subject to the provisions of this Section 5, the holder of record of any share or shares of Series B Preferred Stock shall have the right, at such holder's option, to convert each said share or shares of Series B Preferred Stock into a number of shares of fully paid non-assessable Common Stock equal to the quotient obtained by dividing the sum of \$10.00 by the fair market value in dollars per share of the Common Stock of the Corporation then issued and outstanding. In the event any shares of the Series B Preferred Stock shall have been called for redemption as herein provided, such right of conversion in respect of the shares so called for redemption shall cease and terminate as at the close of business on the tenth day prior to the date fixed for the redemption of such shares, unless default shall be made in the payment of the redemption price.

(b) Any holder of a share or shares of Series B Preferred Stock desiring to convert such Series B Preferred Stock into Common Stock shall surrender the certificate or certificates representing the share or shares of Series B Preferred Stock so to be converted, duly endorsed to the Corporation or in blank, at the principal office of the Corporation (or at such other place as may be designated by the Corporation), and shall give

written notice to the Corporation at said office that he elects to convert the same and setting forth the name or names (with the address or addresses) in which the shares of Common Stock are to be issued.

(c) Conversion of Series B Preferred Stock shall be subject to the following additional terms and provisions:

(i) As promptly as practicable after the surrender for conversion of any Series B Preferred Stock, the Corporation shall deliver or cause to be delivered at the principal office of the Corporation (or such other place as may be designated by the Corporation), to or upon the written order of the holder of such Series B Preferred Stock, certificates representing the shares of Common Stock issuable upon such conversion, issued in the name or names as such holder may direct. Shares of the Series B Preferred Stock shall be deemed to have been converted as of the close of business on the date of the surrender of the Series B Preferred Stock for conversion, as provided above, and the rights of the holders of such Series B Preferred Stock shall cease at such time, and the person or persons in whose name or names the certificates for such shares are to be issued shall be treated for all purposes as having become the record holder or holders of such Common Stock at such time; *provided, however*, that any such surrender on any date when the stock transfer books of the Corporation shall be closed shall constitute the person or persons in whose name or names the certificates for such shares are to be issued as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open.

(ii) The Corporation shall at the time of such conversion pay to the holder of record of any share or shares of Series B Preferred Stock any accrued but unpaid dividends on said Series B Preferred Stock on said Series B Preferred Stock so surrendered for conversion.

(iii) The Corporation shall not be required to issue any scrip or fractional shares of Common Stock upon conversions of Series B Preferred Stock. If more than one share of Series B Preferred Stock shall be surrendered for conversion at one time by the same holder, the number of full shares of Common Stock which shall be issuable upon conversion of

such Series B Preferred Stock shall be computed on the basis of the aggregate number of shares of Series B Preferred Stock so surrendered. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of the Series B Preferred Stock, the Corporation shall pay to the holder of the shares of Series B Preferred Stock which are then being converted a cash adjustment in respect of such fraction in an amount equal to the same fraction of the fair market value per share of the Common Stock at the close of business as of the date of such conversion.

(iv) In the event that the Corporation shall at any time subdivide or combine in a greater or lesser number of shares the outstanding shares of Common Stock, the number of shares of Common Stock issuable upon conversion of the Series B Preferred Stock shall be proportionately increased in the case of subdivision or decreased in the case of a combination, effective in either case at the close of business on the date when such subdivision or combination shall become effective.

(v) In the event that the Corporation shall be recapitalized, consolidated with or merged into any other corporation, or shall sell or convey to any other corporation all or substantially all of its property as an entirety, provision shall be made as part of the terms of such recapitalization, consolidation, merger, sale or conveyance so that any holder of Series B Preferred Stock may thereafter receive in lieu of the Common Stock otherwise issuable to him upon conversion of his Series B Preferred Stock, but at the conversion ratio stated in this Section 5, the same kind and amount of securities or assets as may be distributable upon such recapitalization, consolidation, merger, sale or conveyance, with respect to the Common Stock of the Corporation.

(vi) In the event that the Corporation shall at any time pay to the holders of Common Stock a dividend in Common Stock, the number of shares of Common Stock issuable upon conversion of the Series B Preferred Stock shall be proportionately increased, effective at the close of business on the record date for determination of the holders of Common Stock entitled to such dividend.

(vii) Except as provided in subparagraph (ix) of this subsection (c) of this Section 5, in the event that the Corporation shall at any time pay any dividend or make any other distribution on its Common Stock in property, other than in cash or in Common Stock of the Corporation, then provision shall be made as part of the terms of such dividend or distribution so that the holder of any Series B Preferred Stock surrendered for conversion after the record date for determination of holders of Common Stock entitled to such dividend or distribution shall be entitled to receive the same kind and the same proportionate share of such property which he would have been entitled to receive had such Series B Preferred Stock been converted immediately prior to such record date.

(viii) Such adjustments shall be made successively if more than one event listed in subparagraphs (iv), (v), (vi) and (vii) of this subsection (c) of this Section 5 shall occur.

(ix) No adjustment of the conversion ratio shall be made by reason of:

- (A) the payment of any cash dividend on the Common Stock or any other class of the capital stock of the Corporation; or
- (B) the purchase, acquisition, redemption or retirement by the Corporation of any shares of the Common Stock or of any other class of the capital stock of the Corporation, except as provided in subparagraph (iv) of this subsection (c); or
- (C) the issuance, other than as provided in subparagraphs (iv), (vi) and (vii) of this subsection (c), of any shares of Common Stock of the Corporation, or of any securities convertible into shares of Common Stock or other securities of the Corporation, or of any rights, warrants or options to subscribe for or purchase shares of the Common Stock or other securities of the Corporation, or of any other securities of the Corporation, provided that in the event the Corporation offers any of its securities, or any rights, warrants or options to subscribe for or purchase any of its securities, to the holders of its

Common Stock pursuant to any preemptive or preferential rights granted to holders of Common Stock by the Articles of Incorporation of the Corporation, or pursuant to any similar rights that may be granted to such holders of Common Stock by the Board of Directors of the Corporation, the Corporation shall mail written notice of such offer to the holders of the Series B Preferred Stock then of record at least 20 days prior to the record date for the determination of holders of the Common Stock entitled to receive any such offer; or

(D) any offer by the Corporation to redeem or acquire shares of its Common Stock by paying or exchanging therefor stock of another corporation or the carrying out by the Corporation of the transactions contemplated by such offer, provided that at least 20 days prior to the expiration of any such offer the Corporation shall mail written notice of such offer to the holders of the Series B Preferred Stock then of record; or

(E) the distribution to holders of Common Stock of the Corporation of stock, if the issuer of such stock shall be engaged at the time of such distribution in a business (1) which shall have been previously operated on a divisional, or subsidiary, basis by a corporation acquired by the Corporation and (2) which shall be distinct from the principal businesses of the corporation so acquired.

(x) The Corporation shall at all times reserve and keep available solely for the purpose of issue upon conversion of Series B Preferred Stock, as herein provided, such number of shares of Common Stock as shall be issuable upon the conversion of all outstanding Series B Preferred Stock.

(d) The issuance of certificates for shares of Common Stock upon conversion of the Series B Preferred Stock shall be made without charge for any tax in respect of such issuance. However, if any certificate is to be issued in a name other than that of the holder of record of the Series B Preferred Stock so converted, the person or persons requesting the issuance thereof shall pay to the Corporation the amount of any tax which may be payable in respect, of any transfer involved in such issuance, or shall



establish to the satisfaction of the Corporation that such tax has been paid or is not due and payable.

6. ***Limitations on Corporation; Shareholder Consent.*** So long as any shares of Series B Preferred Stock are outstanding, the Corporation shall not, without affirmative vote or the written consent as provided by law, of 80% of the holders of the outstanding shares of that the Series B Preferred Stock, voting as a class, change the preferences, rights or limitations with respect to such Series B Preferred Stock in any material respect prejudicial to the holders thereof, or increase the authorized number of shares of such Series B Preferred Stock, but nothing herein contained shall require such a class vote or consent (a) in connection with any increase in the total number of authorized shares of Common Stock, or (b) in connection with any decrease in the number of shares of Series A Preferred Stock, or (c) in connection with the authorization, designation, increase or issuance of any class or series of stock holding a ranking subordinate to the Series B Preferred Stock. Further, no such vote or written consent of the holders of the Series B Preferred Stock shall be required if, at or prior to the time when any such change is to take effect, provision is made for the redemption of all shares of such Series B Preferred Stock at the time outstanding; and the provisions of this Section 6, shall not in any way limit the right and power of the Corporation to issue any bonds, notes, mortgages, debentures and other obligations, and to incur indebtedness to banks and to other lenders.


7. ***Stated Capital.*** Of the consideration received by the Corporation in exchange for the issuance of each share of the Series B Preferred Stock, \$10.00 shall constitute the stated capital of the Corporation.

8. ***Notices.*** All notices or other communications required or permitted to be given pursuant to this Amendment shall be in writing and shall be considered as properly given or made if hand delivered, mailed by certified or registered mail, return receipt requested, or sent by prepaid telegram, if to the Corporation at its address indicated in its Annual Report as most recently filed with the Florida Department of State, and if to a holder of Series B Preferred Stock at the address set forth in the shareholder records as maintained by the Corporation, or to such other address as any such shareholder may have designated by like notice forwarded tot he Corporation. All notices, except notices of change of address, shall be deemed given when mailed or hand delivered and notices of change of address shall be deemed given when received.

IN WITNESS WHEREOF, Cutler Manufacturing Acquisition Corp. has caused its corporate seal to be hereunto affixed and this Certificate to be executed by its President and by its Assistant Secretary, as of May 2, 1998.

CUTLER MANUFACTURING  
ACQUISITION CORP.

  
Carl W. Whitley, President

  
Harold D. Holder, Sr.,  
Assistant Secretary

STATE OF FLORIDA

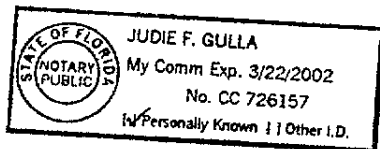
COUNTY OF POLK

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_ day of May, 1998, by Carl W. Whitley, as President of Cutler Manufacturing Acquisition Corp., a Florida corporation, on behalf of the corporation. He/she \_\_\_\_ is personally known to me or ☒ has produced \_\_\_\_\_ as identification and did not take an oath. [Notary: Check appropriate blank, and if taking identification, please enter the type of identification.]

  
Notary Public

JUDIE F. GULLA  
Printed Name of Notary

My commission expires:



\_\_\_\_\_  
Rank or Serial Number

COUNTY OF HILLSBOROUGH

Judie L. Kulla  
Notary Public

STATE OF FLORIDA  
NOTARY PUBLIC

JUDIE F. GULLA  
My Comm Exp. 3/22/2002  
No. CC 726157  
☒ Personally Known ☐ Other I.D.

WKL:mas  
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