

PO9960

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

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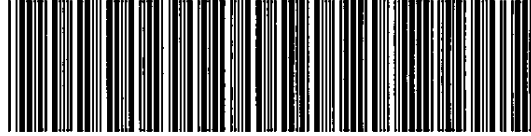
(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

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SEP 08 2015

C. CARROTHERS

2016 AUG 24 AM 9:55
RECEIVED
SECRETARY OF STATE
TALLAHASSEE, FL 32304

FILED

COVER LETTER

TO: Amendment Section
Division of Corporations

SUBJECT: Allen Systems Group, Inc.

Name of Corporation

DOCUMENT NUMBER: P09960

The enclosed Amendment and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Michael Kraus

Name of Contact Person

ASG Technologies Group, Inc.

Firm/Company

708 Goodlette Frank Rd

Address

Naples, FL 34102

City/State and Zip Code

michael.kraus@asg.com

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

For further information concerning this matter, please call:

Michael Kraus

at (239) 435-3661

Name of Contact Person

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount:



\$35.00 Filing Fee



\$43.75 Filing Fee &
Certificate of Status



\$43.75 Filing Fee &
Certified Copy
(Additional copy is
enclosed)



\$52.50 Filing Fee,
Certificate of Status &
Certified Copy
(Additional copy is
enclosed)

Mailing Address:

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

Street Address:

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

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)

P09960

(Document number of corporation (if known))

1. Allen Systems Group, Inc.

(Name of corporation as it appears on the records of the Department of State)

2. Delaware

(Incorporated under laws of)

3. 05/01/1986

(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? 08/17/2016

5. ASG Technologies Group, 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)

ASG Technologies

(If new name is unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

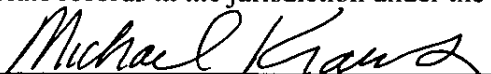
6. If the amendment changes the period of duration, indicate new period of duration.

(New duration)

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

(New jurisdiction)

8. Attached is a certificate or document of similar import, evidencing the amendment, authenticated not more than 90 days prior to delivery of the application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the laws of which it is incorporated.



(Signature of a director, president or other officer - if in the hands of a receiver or other court appointed fiduciary, by that fiduciary)

Michael Kraus

(Typed or printed name of person signing)

Assistant General Counsel

(Title of person signing)

2016 AUG 24 AM 11:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED

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 RESTATED CERTIFICATE OF "ALLEN SYSTEMS GROUP, INC.", CHANGING ITS NAME FROM "ALLEN SYSTEMS GROUP, INC." TO "ASG TECHNOLOGIES GROUP, INC.", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF AUGUST, A.D. 2016, AT 10:34 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID RESTATED CERTIFICATE IS THE SEVENTEENTH DAY OF AUGUST, A.D. 2016.

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




Jeffrey W. Bullock, Secretary of State

2086547 8100
SR# 20165357779

Authentication: 202829078
Date: 08-15-16

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

FIFTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
ALLEN SYSTEMS GROUP, INC.

Adopted Pursuant to Sections 242 and 245 of the
Delaware General Corporation Law

August 15, 2016

Allen Systems Group, Inc., a Delaware corporation (the "Corporation"), hereby certifies as follows:

I. The name of the Corporation is Allen Systems Group, Inc. The date of filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was March 24, 1986, under the name of "Allen Systems Group, Inc."

II. The Corporation filed an Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware on April 30, 2015 (the "Second Amended and Restated Certificate of Incorporation").

III. The Corporation filed an Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware on November 12, 2015 (the "Third Amended and Restated Certificate of Incorporation").

IV. The Corporation filed an Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware on June 27, 2016 (the "Fourth Amended and Restated Certificate of Incorporation").

V. This Fifth Amended and Restated Certificate of Incorporation of the Corporation (this "Fifth Amended and Restated Certificate of Incorporation") is being filed pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL") in order to amend and restate the Fourth Amended and Restated Certificate of Incorporation to reflect the name change of the Corporation from "Allen Systems Group, Inc." to "ASG Technologies Group, Inc."

VI. The terms and provisions of this Fifth Amended and Restated Certificate of Incorporation were duly adopted in accordance with the provisions of Section 242 of the DGCL.

VII. This Fifth Amended and Restated Certificate of Incorporation will become effective on August 17, 2016 (the "Effective Time").

VIII. From and after the Effective Time, the Fourth Amended and Restated Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:

1. Name. The name of the corporation ASG Technologies Group, Inc.
2. Address; Registered Office and Agent. The address of the Corporation's registered office is Corporation Service Company, 2711 Centerville Rd. Suite 400, City of Wilmington, County of New Castle, State of Delaware 19808; and the name of its registered agent at such address is Corporation Service Company.
3. Purposes. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.
4. Number of Shares. The total number of shares of stock that the Corporation shall have authority to issue is 15,500,000, of which (i) 14,570,000 shares shall be designated as Common Stock, par value \$0.01 per share (the "Common Stock"), (ii) 775,000 shares shall be designated as Class A Common Stock, par value \$0.01 per share (the "Class A Common Stock"), and (iii) 155,000 shares shall be designated as Class B Common Stock, par value \$0.01 per share (the "Class B Common Stock" and together with the Common Stock and the Class A Common Stock, the "Stock"). Each share of the common stock of the Corporation that was issued and outstanding immediately prior to the filing of this Third Amended and Restated Certificate of Incorporation shall automatically, without further action on the part of the Corporation or any holder of such common stock, be deemed to be one fully paid and nonassessable share of Common Stock.

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of the different classes of stock of the Corporation.

4.1. Voting. The holders of the Stock are entitled to one vote for each share of Stock held at all meetings of stockholders (and written actions in lieu of meetings). The holders of the Stock shall vote as one class on all matters brought before the stockholders.

4.2. Dividends and Distributions. Subject to Section 4.3, the holders of the Stock are each entitled to receive a pro rata portion of such dividends, if any, as may be declared from time to time by the Board of Directors of the Corporation (the "Board").

4.3. Extraordinary Dividends and Distributions. For purposes of this Section 4.3, the following terms shall have the meanings set forth below:

"Adjusted Enterprise Value" means an amount equal to (i) the total amount of dividends issued to the stockholders of the Corporation pursuant to one or more Dividend Recapitalizations (including any such dividend contemplated pursuant to which the determination of Adjusted Enterprise Value is being made), plus (ii) the amount paid by the purchaser in connection with

any Sale Transaction (for purposes of clarity, such amount shall include any amount paid to retire indebtedness of the Corporation or its subsidiaries).

“Dividend Recapitalization” means the incurrence of indebtedness by the Corporation or its subsidiaries for borrowed money, all or some portion of the proceeds of which are used to pay a cash dividend to the stockholders of the Corporation promptly (and in any event within 15 days) following the incurrence of such indebtedness for borrowed money.

“Participation Percentage” means a percentage equal to (i) the Adjusted Enterprise Value at the time of determination minus \$623 million, divided by (ii) \$50.5 million.

“Sale Transaction” means either (i) the sale, lease, transfer, conveyance or other disposition, in one transaction or a series of related transactions (including by way of merger, consolidation, recapitalization, reorganization or sale of securities of one or more of the Corporation’s subsidiaries), to any person for value, of all or substantially all of the assets of the Corporation and its subsidiaries on a consolidated basis or (ii) a transaction or series of transactions (including by way of merger, consolidation, recapitalization, reorganization or sale of securities by the holders of securities of the Corporation) with any person the result of which is that the stockholders immediately prior to such transaction are (after giving effect to such transaction) no longer, in the aggregate, the “beneficial owners” (as such term is defined in Rule 13d-3 and Rule 13d-5 promulgated under the Securities Exchange Act), directly or indirectly through one or more intermediaries, of more than 50% of the Stock of the Corporation.

“Stock Repurchase Payment” means the cash purchase price paid by the Corporation to repurchase any of its Common Stock from its stockholders.

4.3.1 Generally. Any dividends declared by the Corporation in connection with any Sale Transaction or Dividend Recapitalization (collectively, “Extraordinary Dividends”) shall be distributed on a pro rata basis to the holders of participating Stock (as determined pursuant to Sections 4.3.2, 4.3.3, and 4.3.4, below).

4.3.2 Common Stock. The Common Stock will participate in and be entitled to receive their pro rata portion of all Extraordinary Dividends.

4.3.3 Class A Common Stock. The Class A Common Stock will not participate in and will not be entitled to receive any portion of the first \$260 million (the “Threshold Amount”) of Extraordinary Dividends (provided that the Threshold Amount shall automatically be reduced by any Stock Repurchase Payment made on or after the date hereof). Thereafter, the Class A Common Stock will participate in and be entitled to receive their pro rata portion of all Extraordinary Dividends.

4.3.4 Class B Common Stock. The Class B Common Stock will not participate in and will not be entitled to receive any portion of Extraordinary Dividends until the Adjusted Enterprise Value at the time of such Extraordinary Dividend is at least \$623 million. If the Adjusted Enterprise Value is between \$623 million and \$673.5 million at the time of any Extraordinary Dividend, a portion of shares of the Class B Common Stock equal to each stockholder’s total number of shares of Class B Common Stock multiplied by the Participation Percentage shall participate in and be entitled to receive their pro rata portion of such

Extraordinary Dividend. If the Adjusted Enterprise Value is greater than \$673.5 million at the time of any Extraordinary Dividend, the Class B Common Stock will participate fully in and be entitled to receive their pro rata portion of such Extraordinary Dividend.

4.3.5 Sale Transaction. The Corporation shall not have the power to effect a Sale Transaction unless the agreement or plan of merger or consolidation for such transaction provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of the Stock of the Corporation as if such consideration was considered an Extraordinary Dividend.

5. Election of Directors. Unless and except to the extent that the Bylaws of the Corporation (the "By-laws") shall so require, the election of directors of the Corporation need not be by written ballot.

6. Limitation of Liability.

6.1. To the fullest extent permitted under the DGCL, as amended from time to time, no director (whether former, current or future) of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

6.2. Any amendment or repeal of Section 6.1 shall not adversely affect any right or protection of a director (whether former, current or future) of the Corporation hereunder in respect of any act or omission occurring prior to the time of such amendment or repeal.

7. Indemnification.

7.1. Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered 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 (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another entity or enterprise, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 7.3, the Corporation shall be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person only if the commencement of such Proceeding (or part thereof) by the Covered Person was authorized by the Board.

7.2. Prepayment of Expenses. To the extent not prohibited by applicable law, the Corporation shall pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any Proceeding in advance of its final disposition; provided, however, that, to the extent required by applicable law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Covered Person to

repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Section 7 or otherwise.

7.3. Claims. If a claim for indemnification or advancement of expenses under this Section 7 is not paid in full within 30 days after a written claim therefor by the Covered Person has been received by the Corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

7.4. Nonexclusivity of Rights. The rights conferred on any Covered Person by this Section 7 shall not be exclusive of any other rights that such Covered Person may have or hereafter acquire under any statute, provision of this Amended and Restated Certificate of Incorporation, the By-laws, agreement, vote of stockholders or disinterested directors or otherwise.

7.5. Other Sources. The Corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another entity or enterprise shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other entity or enterprise.

7.6. Amendment or Repeal. Any amendment or repeal of the foregoing provisions of this Section 7 shall not adversely affect any right or protection hereunder of any Covered Person in respect of any act or omission occurring prior to the time of such amendment or repeal.

7.7. Other Indemnification and Prepayment of Expenses. This Section 7 shall not limit the right of the Corporation, to the extent and in the manner permitted by applicable law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

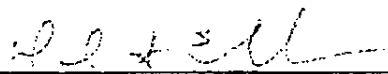
8. Adoption, Amendment or Repeal of By-Laws. The Board is authorized to adopt, amend or repeal the By-laws.

9. Certificate Amendments. Subject to the limitations set forth in Sections 6 and 7 hereof, the Corporation reserves the right at any time, and from time to time, to amend or repeal any provision contained in this Amended and Restated Certificate of Incorporation, and add other provisions authorized by the laws of the State of Delaware at the time in force, in the manner now or hereafter prescribed by applicable law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Amended and Restated Certificate of Incorporation (as amended) are granted subject to the rights reserved in this Section and Sections 6 and 7 hereof.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Fifth Amended and Restated Certificate of Incorporation, which has been duly adopted in accordance with Sections 242 and 245 of the DGCL, has been executed by its duly authorized officer as of the date first written above.

ALLEN SYSTEMS GROUP, INC.

By: 
Name: Derek S. Eckelman
Title: Secretary