

Division of Corporations

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Florida Department of State
Division of Corporations
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**COR AMND/RESTATE/CORRECT OR O/D RESIGN
PERFORMANCE POWER MATERIALS, INC.**

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SEVENTH AMENDED AND RESTATED 2016 SEP 20 A 10:44

ARTICLES OF INCORPORATION

OF

PERFORMANCE POWER MATERIALS, INC.

Pursuant to Section 607.1007 of the Florida Business Corporation Act, Performance Power Materials, Inc., a corporation organized and existing under the laws of the State of Florida (the "Corporation"), hereby certifies as follows:

FIRST: The name of this Corporation is Performance Power Materials, Inc. and the Corporation was originally incorporated under the name Performance Power Materials, Inc. on August 29, 2011.

SECOND: The following amendment and restatement was approved by the Corporation's Board of Directors by written consent dated as of June 30, 2016 and by the shareholders of the Corporation by written consent dated as of June 30, 2016. The number of votes cast by the shareholders was sufficient for approval.

THIRD: The Articles of Incorporation of the Corporation, as amended from time to time, are hereby amended and restated in their entirety as follows:

ARTICLE I

NAME

The name of the Corporation is Performance Power Materials, Inc.

ARTICLE II

PRINCIPAL ADDRESS

The principal place of business address 4047 Okeechobee Blvd., Suite 228, West Palm Beach, FL 33409 and the mailing address is the same.

ARTICLE III

PURPOSE

The purpose for which this corporation is organized is any and all lawful business allowed under the laws of the State of Florida.

ARTICLE IV

CAPITALIZATION

The total number of shares of capital stock of all classes which the Corporation shall have authority to issue is 412,710 shares, consisting of: (i) 329,460 shares of Common Stock, no par

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value (the "Common Stock") of which 270,460 shares shall be of a class designated "Class A Voting Common Stock" and 59,000 shares of which shall be of a class designated "Class B Non-Voting Common Stock" and (ii) 83,250 shares of Preferred Stock, no par value, (the "Preferred Stock") of which 61,250 shares shall be of a class designated "Series A Preferred Stock" and 22,000 of which shall be of a class designated "Series B Preferred Stock," which numbers may be decreased by the Board of Directors (the "Board") of the Corporation without a vote of stockholders; provided, however, that such number may not be decreased below the number of then currently outstanding shares of Series A Preferred Stock or Series B Preferred Stock.

The Board is authorized to determine the designations, preferences, privileges and powers and relative, participating, optional or other special rights and qualifications, limitations or restrictions of the above classes of capital stock.

The designations, preferences, privileges and powers and relative, participating, optional or other special rights and qualifications, limitations or restrictions of the Common Stock and the Preferred Stock shall be as follows:

1. Class A Voting Common Stock.

(a) **Voting.** Except as otherwise provided by law, on all matters on which the holders of the Class A Voting Common Stock shall be entitled to vote, each share of such Class A Voting Common Stock shall entitle the holder thereof to one vote per share.

(b) **Dividends.** Subject to the express terms of any series of the Preferred Stock outstanding from time to time, such dividend or distribution as may be determined by the Board of Directors of the Corporation may from time to time be declared and paid or made upon the Class A Voting Common Stock and Class B Non-Voting Common Stock out of any source at the time lawfully available for the payment of dividends.

(c) **Liquidation.** The holders of the Class A Voting Common Stock shall be entitled to share ratably, along with the holders of Class B Non-Voting Common Stock, upon any liquidation, dissolution or winding up of the affairs of the Corporation (voluntary or involuntary), all assets of the Corporation which are legally available for distribution, if any, remaining after payment of all debts and other liabilities and subject to the prior rights of any holders of Preferred Stock of the preferential amounts, if any, to which they are entitled.

2. Class B Non-Voting Common Stock.

(a) **Voting.** Except as otherwise provided by law, the holders of the Class B Non-Voting Common Stock shall not be entitled to vote.

(b) **Dividends.** Subject to the express terms of any series of the Preferred Stock outstanding from time to time, such dividend or distribution as may be determined by the Board of Directors of the Corporation may from time to time be declared and paid or made upon the Class B Non-Voting Common Stock and Class A Voting Common Stock out of any source at the time lawfully available for the payment of dividends.

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(c) **Liquidation.** The holders of the Class B Non-Voting Common Stock shall be entitled to share ratably, along with the holders of Class A Non-Voting Common Stock, upon any liquidation, dissolution or winding up of the affairs of the Corporation (voluntary or involuntary), all assets of the Corporation which are legally available for distribution, if any, remaining after payment of all debts and other liabilities and subject to the prior rights of any holders of Preferred Stock of the preferential amounts, if any, to which they are entitled.

3. **Preferred Stock.**

(a) **General.** Subject to the other provisions of these Amended and Restated Articles of Incorporation, the Board of Directors is expressly authorized to provide for the issue of all or any of the shares of the Preferred Stock in one or more series, and to fix the number of shares and to determine or alter for each such series, such voting rights, designations, powers, preferences and relative, participating, optional or other rights, and such qualifications, limitations, or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issue of such shares as may be permitted by law. Each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. The authority of the Board of Directors of the Corporation with respect to each series shall include, but not be limited to, the determination or fixing of the following: (i) the designation of such series; (ii) the dividend rate of such series, the conditions and dates upon which such dividends shall be payable, the relation which such dividends shall bear to the dividends payable on any other class or classes of stock or any other series of any class of stock of the Corporation, and whether such dividends shall be cumulative or non-cumulative; (iii) whether the shares of such series shall be subject to redemption by the Corporation and, if made subject to such redemption, the times, prices and other terms and conditions of such redemption; (iv) the terms and amount of any sinking fund provided for the purchase or redemption of the shares of such series; (v) whether or not the shares of such series shall be convertible into or exchangeable for shares of any other class or classes of any stock or any other series of any class of stock of the Corporation, and, if provision is made for conversion or exchange, the times, prices, rates, adjustments, and other terms and conditions of such conversion or exchange; (vi) the extent, if any, to which the holders of shares of such series shall be entitled to vote with respect to the election of directors or otherwise; (vii) the restrictions, if any, on the issue or reissue of any additional shares of such series; and (viii) the rights of the holders of the shares of such series upon the liquidation, dissolution or distribution of assets of the Corporation.

(b) **Definitions.** The following definitions shall apply to Section 3:

"Capital Stock" means all shares of the Corporation's capital stock, including Series A Preferred, Series B Preferred, Class A Voting Common Stock, Class B Non-Voting Common Stock and any other series or class of stock or securities subsequently authorized by the Corporation or its shareholders or any securities convertible into any series or class of stock.

"Class A Voting Common Stock" means the Corporation's Class A Voting Common Stock, no par value.

"Class B Non-Voting Common Stock" means the Corporation's Class B Non-Voting Common Stock, no par value.

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"Common Stock" means Class A Voting Common Stock and Class B Non-Voting Common Stock, collectively.

"Liquidation Event" means the dissolution, liquidation or winding up of the affairs of the Corporation, either voluntarily or involuntarily, the sale of all or substantially all of the Corporation's assets, the sale of a majority of issued and outstanding shares of Capital Stock, or any consolidation or merger of the Corporation with or into any other entity or similar transaction (if as a result of such consolidation or merger the holders of this corporation's issued and outstanding Capital Stock hold less than fifty percent (50%) of the issued and outstanding capital stock of the successor to such consolidation or merger).

"Person" means any Individual, partnership (whether general or limited), joint venture, firm, corporation, limited liability company, association, trust or other enterprise (whether or not incorporated), or governmental authority.

"Series A Preferred" means the Corporation's Series A Preferred Stock, no par value.

"Series B Preferred" means the Corporation's Series B Preferred Stock, no par value.

(c) **Series A Preferred Stock.**

(i) Dividends.

(1) Until Series A Preferred shareholders receive aggregate dividends in the amount of \$2,330,000, or until no shares of Series A Preferred remain issued and outstanding, the Corporation may not pay or declare dividends on any other shares of the Corporation's Capital Stock.

(2) After the automatic conversion of Series A Preferred described in Section 3(c)(v) below, the former Series A Preferred shareholders, whose shares of Series A Preferred automatically converted to Class A Voting Common Stock, shall have the right to immediately participate in any dividends declared and/or paid to holders of the Corporation's Common Stock, regardless of whether such Common Stock dividends were declared prior to the time of such automatic conversion.

(ii) Liquidation Events. Upon the occurrence of a Liquidation Event, the funds and assets of the Corporation that may be legally distributed to the Corporation's shareholders (the "Available Funds and Assets") shall be distributed to the Corporation's shareholders in the following manner:

(1) Liquidation Preference. Holders of the then-outstanding shares of Series A Preferred shall be entitled to be paid, out of the Available Funds and Assets, and prior to and in preference to any payment or distribution (or any setting a part of any payment or distribution) of any Available Funds and Assets to holders of any other shares of Capital Stock ranking junior to the Series A Preferred upon the occurrence of a Liquidation Event, a total aggregate amount equal to \$2,330,000, less the sum of any prior dividends or

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distributions actually paid to Series A Preferred shareholders by the Corporation, plus a sum equal to all declared but unpaid dividends, if any, on each such share Series A Preferred. If, upon the occurrence of a Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of Series A Preferred of their full preferential amounts described in this Section 3(c)(ii)(1), then all remaining Available Funds and Assets shall be distributed ratably among the holders of Series A Preferred.

(2) *Remaining Assets After Preferential Payments.* If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of the Series A Preferred of their full preferential amounts described in Section 3(c)(ii)(1) above, then all Series A Preferred and all Series B Preferred shall automatically convert to Class A Voting Common Stock in accordance with Section 3(c)(v) below and all such remaining, Available Funds and Assets shall be distributed to the holders of the then-outstanding Common Stock ratably according to the number of shares of Common Stock held by such holders.

(3) *Non-Cash Distributions.* If any of the assets of the Corporation are to be distributed other than in cash under this Section 3, then the Board shall determine in its reasonable judgment the value of the assets to be distributed.

(iii) *Voting Rights.* On all matters to come before the shareholders of the Corporation, the holders of Series A Preferred shall have that number of votes per share (rounded to the nearest whole share) equal to the product of (a) the number of shares of Series A Preferred held on the record date for the determination of the holders of the shares entitled to vote (the "Record Date"), or, if no Record Date is established, at the date such vote is taken or any written consent of shareholders is first solicited, and (b) 2.79. Except as otherwise expressly provided by these Amended and Restated Articles of Incorporation or by applicable law, the holders of Series A Preferred shall vote together with the holders of the outstanding shares of Capital Stock (other than holders of Class B Non-Voting Common Stock), and not as a separate class, series or voting group.

(iv) *Protective Provisions.* In addition to voting rights provided by Section 3(c)(iii) above, the consent of the holders of a majority of the then-outstanding shares of Series A Preferred, given in person or by proxy, either in writing or by vote at a meeting called for that purpose at which the holders of the Series A Preferred shall vote as a separate class, shall be required for any action that amends or repeals any provision of, or adds any provision to, the Articles of Incorporation if such action would adversely alter or change the rights, preferences; privileges, powers or restrictions of the shares of Series A Preferred so as to adversely affect such shares separately as a class. For the avoidance of doubt, and not for purposes of limitation, the holders of Series A Preferred shall have the right to vote as a separate class, series or voting group in connection with or related to (a) any increase or decrease in the total number of authorized shares of any class of Capital Stock; or (b) the creation of any new class or series of stock or any other securities convertible into equity securities of the Corporation having, a preference over or being on parity with the Series A Preferred with respect to any matter.

(v) *Automatic Conversion.* At the time the Series A Preferred shareholders receive a cumulative total of \$2,330,000 in dividends and/or distributions paid by

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the Corporation, the Series A Preferred shall automatically convert, without any further action by the Corporation, Board, or the Corporation's shareholders, to Class A Voting Common Stock on a one-to-one (1:1, the "Conversion Ratio") basis, provided however, that the Conversion Ratio shall automatically adjust to account for, and at the time of, any stock split, stock dividend, recapitalization or other issuances of any Capital Stock, in each case such that after the automatic conversion contemplated by this Section 3(c)(v), the former Series A Preferred shareholders will collectively own 56.96% of the issued and outstanding Common Stock on a fully-diluted basis (exclusive of any other Common Stock owned by such shareholders prior to such conversion). The Corporation shall, at all times ensure that an adequate number of shares of Class A Voting Common Stock remain authorized for issuance upon conversion of the Series A Preferred hereby.

(vi) Amendment. Any term relating to the Series A Preferred may be amended and the observance of any term relating to the Series A Preferred may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the vote or written consent of the Board and the holders of a majority of the then-outstanding Series A Preferred. Any amendment or waiver so affected shall bind the Corporation and any then-current or future holder of shares of Series A Preferred.

(d) **Series B Preferred Stock.**

(i) Dividends.

(1) Until Series A Preferred shareholders receive aggregate dividends in the amount of \$2,330,000, the Corporation may not pay or declare dividends on any other shares of the Corporation's Capital Stock, including but not limited to Series B Preferred

(2) After the automatic conversion of Series B Preferred described in Section 3(d)(iv) below, the former Series B Preferred shareholders, whose shares of Series B Preferred automatically converted to Class A Voting Common Stock, shall have the right to immediately participate in any dividends declared and/or paid to holders of the Corporation's Common Stock, regardless of whether such Common Stock dividends were declared prior to the time of such automatic conversion.

(ii) Liquidation Events. Upon the occurrence of a Liquidation Event, the funds and assets of the Corporation that may be legally distributed to the Corporation's shareholders (the "Available Funds and Assets") shall be distributed to the Corporation's shareholders in the following manner:

(1) Liquidation Preference. Holders of the then-outstanding shares of Series A Preferred shall be entitled to be paid, out of the Available Funds and Assets, and prior to and in preference to any payment or distribution (or any setting a part of any payment or distribution) of any Available Funds and Assets to holders of any other shares of Capital Stock ranking junior to the Series A Preferred (including Series B Preferred) upon the occurrence of a Liquidation Event, a total aggregate amount equal to \$2,330,000, less the sum of any prior dividends actually paid to Series A Preferred shareholders, plus a sum equal to all declared but unpaid dividends, if any, on each such share Series A Preferred. If upon the

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occurrence of a Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of Series A Preferred of their full preferential amounts described in this Section 3(a), then all remaining Available Funds and Assets shall be distributed ratably among the holders of Series A Preferred.

(2) *Remaining Assets After Preferential Payments.* If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of the Series A Preferred of their full preferential amounts described in Section 3(d)(ii)(1) above, then all Series A Preferred and all Series B Preferred shall automatically convert to Class A Voting Common Stock in accordance with Section 3(d)(iv) below and all such remaining Available Funds and Assets shall be distributed to the holders of the then-outstanding Common Stock ratably according to the number of shares of Common Stock held by such holders.

(3) *Non-Cash Distributions.* If any of the assets of the Corporation are to be distributed other than in cash under this Section 3, then the Board shall determine in its reasonable judgment the value of the assets to be distributed.

(iii) *Voting Rights.* On all matters to come before the shareholders of the Corporation, the holders of Series B Preferred shall have that number of votes per share (rounded to the nearest whole share) equal to the product of (a) the number of shares of Series B Preferred held on the record date for the determination of the holders of the shares entitled to vote (the "Record Date"), or, if no Record Date is established, at the date such vote is taken or any written consent of shareholders is first solicited, and (b) the fraction 4/11. Except as otherwise expressly provided by these Amended and Restated Articles of Incorporation or by applicable law, the holders of Series B Preferred shall vote together with the holders of the outstanding shares of Capital Stock (other than holders of Class B Non-Voting Common Stock), and not as a separate class, series or voting group.

(iv) *Automatic Conversion.* At the time the Series A Preferred shareholders receive a cumulative total of \$2,330,000 in dividends and/or distributions paid by the Corporation, the Series B Preferred shall automatically convert, without any further action by the Corporation, Board, or the Corporation's shareholders, to Class A Voting Common Stock on a one-to-one (1:1) basis, provided however, that the Conversion Ratio shall automatically adjust to account for, and at the time of, any stock split, stock dividend, recapitalization or other issuances of any Capital Stock, in each case such that after the automatic conversion contemplated by this Section 3(d)(iv), the former Series B Preferred shareholders will collectively own twenty-two percent (22%) of the issued and outstanding Common Stock on a fully-diluted basis (exclusive of any other Common Stock owned by such shareholders prior to such conversion). The Corporation shall, at all times ensure that an adequate number of shares of Class A Voting Common Stock remain authorized for issuance upon conversion of the Series B Preferred hereby.

(v) *Amendment.* Any term relating to the Series B Preferred may be amended and the observance of any term relating to the Series B Preferred may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the vote or written consent of the Board and the holders of a majority of the then-outstanding Series B

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Preferred. Any amendment or waiver so effected shall bind the Corporation and any then-current or future holder of shares of Series B Preferred.

4. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service or mailed by registered or certified mail (postage prepaid), return receipt requested, to the receiving party at the address appearing on the records of the party sending the notice (which address may be changed by a notice complying with the foregoing). Each communication shall be deemed to have been delivered (a) on the date delivered, if by messenger or courier service and (b) either upon the date of receipt or refusal of delivery, if mailed. Any party may change its address for purposes of this paragraph by giving notice of the new address to each of the other parties in the manner set forth in this Section.

ARTICLE V

INDEMNIFICATION

A. The corporation shall to the fullest extent permitted by law indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

B. The corporation may pay in advance any expenses (including attorneys' fees) that may become subject to indemnification under paragraph A above if the person receiving the advance payment of expenses undertakes in writing to repay such payment if it is ultimately determined that such person is not entitled to indemnification by the corporation under paragraph A above.

C. The indemnification provided by paragraph A above shall not be exclusive of any other rights to which a person may be entitled by law, bylaw, agreement, vote or consent of stockholders or directors, or otherwise.

D. The indemnification and advance payment provided by paragraphs A and B above shall continue as to a person who has ceased to hold a position named in paragraph A above and shall inure to such person's heirs, executors, and administrators.

E. The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or who serves or served at the corporation's request as a director, officer, employee, agent, partner, or trustee of another corporation or of a partnership, joint venture, trust, or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have power to indemnify such person against such liability under paragraph A above.

F. If any provision in this Article shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected

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or impaired thereby, and, to the extent possible, effect shall be given to the intent manifested by the provision held invalid, illegal, or unenforceable.

ARTICLE VI

LIABILITY OF DIRECTORS

Except to the extent that the Business Corporation Act of the State of Florida prohibits the elimination or limitation of liability of directors for breach of the duties of a director, no director of the corporation shall have any personal liability for monetary damages for any statement, vote, decision, or failure to act, regarding corporate management or policy. No amendment to or repeal of this provision shall apply to or have any effect on the liability or alleged liability of any director of the corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

ARTICLE VII

QUORUM

The shareholders may adopt or amend a bylaw that fixes a greater quorum or voting requirement for shareholders than is required by the Florida Business Corporation Act, provided, however, that the adoption or amendment of a bylaw that adds, changes, or deletes a greater quorum or voting requirement for shareholders must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

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I, Robert L. Williams, the President of the Corporation, for the purpose of amending and restating the Corporation's Articles of Incorporation pursuant to the Act, do make this certificate, hereby declaring and certifying that this is my act and deed on behalf of the Corporation, and the facts herein stated are true, and accordingly hereunto set my hand this 30th day of June, 2016.


Robert L. Williams, President

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