

**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM S-3**  
**REGISTRATION STATEMENT**  
*Under*  
**THE SECURITIES ACT OF 1933**

**FORUM ENERGY TECHNOLOGIES, INC.\***

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

920 Memorial City Way, Suite 1000  
Houston, Texas 77024  
(281) 949-2500  
(Address, including zip code, and telephone  
number, including area code, of registrant's principal  
executive offices)

61-1488595  
(I.R.S. Employer  
Identification No.)

James L. McCulloch  
Senior Vice President, General Counsel and Secretary  
Forum Energy Technologies, Inc.  
920 Memorial City Way, Suite 1000  
Houston, Texas 77024  
(281) 949-2500

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copy to:*

J. David Kirkland, Jr.  
Tull R. Florey  
Baker Botts L.L.P.  
910 Louisiana Street  
Houston, Texas 77002-4995  
(713) 229-1234

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are to be offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "accelerated filer," "large accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act (Check One).

Large accelerated filer  Accelerated filer   
Non-accelerated filer  (Do not check if smaller reporting company) Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Amount to be Registered/Proposed Maximum Offering Price Per Unit/Proposed Maximum Aggregate Offering Price/Amount of Registration Fee(1)(2)
Debt Securities	
Preferred Stock, par value \$0.01 per share	
Common Stock, par value \$0.01 per share	
Warrants	
Guarantees of Debt Securities(3)	

- (1) There is being registered hereunder such indeterminate number or amount of debt securities, preferred stock, common stock and warrants as may from time to time be issued at indeterminate prices and as may be issuable upon conversion, redemption, exchange, exercise or settlement of any securities registered hereunder, including under any applicable anti-dilution provisions. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder or other securities.
- (2) In reliance on Rule 456(b) and Rule 457(r) under the Securities Act, the Registrant hereby defers payment of the registration fee required in connection with this Registration Statement.
- (3) The additional registrants listed in the table below may fully and unconditionally guarantee any series of debt securities issued hereunder. Pursuant to Rule 457(n), no separate fee is payable with respect to the guarantees of the debt securities being registered.

\* Includes certain subsidiaries of Forum Energy Technologies, Inc. identified below that may guarantee the debt securities.

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The following are co-registrants that may guarantee the debt securities:

<b>Exact name of registrant as specified in its charter*</b>	<b>State or other jurisdiction of incorporation or organization</b>	<b>I.R.S. Employer Identification No.</b>
FET Holdings LLC	Delaware	45-4081088
Forum Energy Services, Inc.	Delaware	90-0778250
Forum Global Holdings, LLC	Delaware	47-1635417
Forum Global Tubing LLC	Delaware	98-0534972
Forum Global Tubing LP	Delaware	98-0534974
Forum International Holdings, Inc.	Delaware	03-0585021
Forum US, Inc.	Delaware	26-3748750
Global Flow Technologies, Inc.	Delaware	56-2520657
TGH (US), Inc.	Delaware	02-0797615
Z Explorations, Inc.	Texas	93-0789523
Z Resources, Inc.	Texas	93-0450795
Zy-Tech Global Industries, Inc.	Delaware	93-0919913

\* Except for Global Flow Technologies, Inc., Z Explorations, Inc., Z Resources, Inc. and Zy-Tech Global Industries, Inc., the address for the principal executive office of each registrant is 920 Memorial City Way, Suite 1000, Houston, Texas 77024 and the telephone number for each registrant's principal executive office is (281) 949-2500. The address for the principal executive office of each of Global Flow Technologies, Inc., Z Explorations, Inc., Z Resources, Inc. and Zy-Tech Global Industries, Inc. is 12735 Dairy Ashford, Stafford, Texas 77477 and the telephone number for each of these entities is (281) 637-2000.



## Forum Energy Technologies, Inc.

**Debt Securities**  
**Preferred Stock**  
**Common Stock**  
**Warrants**  
**Guarantees of Debt Securities**

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We may issue and sell from time to time securities described in this prospectus. This prospectus contains summaries of the general terms of the securities. At the time of each offering, we will provide the specific terms of the offering and the securities in supplements to this prospectus. You should read this prospectus and any prospectus supplement carefully before you invest. Our shares of common stock are listed on the New York Stock Exchange under the symbol "FET."

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**Investing in our securities involves risks. Please carefully review the information under the heading "[Risk Factors](#)" on page 1. In addition, risks associated with any investment in our securities may be described in the applicable prospectus supplement and certain of our filings with the Securities and Exchange Commission, as described in "Risk Factors."**

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined whether this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

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**The date of this prospectus is August 23, 2016.**

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we have filed with the Securities and Exchange Commission using a “shelf” registration process. Under this shelf registration process, we may offer any combination of the securities described in this prospectus in one or more offerings. In addition, other persons identified in a prospectus supplement may, from time to time, sell securities described in this prospectus. This prospectus provides you with a general description of the securities we or others may offer. Each time we or others use this prospectus to offer securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering and the securities being offered. The prospectus supplement may also add to, update or change the information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading “Where You Can Find More Information.”

**We have not authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus may only be used where it is legal to sell the offered securities. You should assume that the information in this prospectus is accurate only as of the date on the front cover of this prospectus and that the information incorporated by reference in this prospectus is accurate only as of the date the respective information was filed with the SEC. Our business, financial condition, results of operations and prospects may have changed since those dates.**

## **ABOUT FORUM ENERGY TECHNOLOGIES, INC.**

We are a global oilfield products company, serving the subsea, drilling, completion, production and infrastructure sectors of the oil and natural gas industry. We design, manufacture and distribute products, and engage in aftermarket services, parts supply and related services that complement our product offering. Our product offering includes a mix of highly engineered capital products and frequently replaced items that are used in the exploration, development, production and transportation of oil and natural gas.

Our executive offices are located at 920 Memorial City Way, Suite 1000, Houston, Texas 77024, and our telephone number is (281) 949-2500.

## **THE SUBSIDIARY GUARANTORS**

Certain of our subsidiaries, which we refer to as the “subsidiary guarantors” in this prospectus, may fully and unconditionally guarantee our payment obligations under any series of debt securities offered using this prospectus. Financial information concerning our subsidiary guarantors and any non-guarantor subsidiaries will, to the extent required by SEC rules and regulations, be included in our consolidated financial statements filed as part of our periodic reports pursuant to the Securities Exchange Act of 1934 (the “Exchange Act”).

## **RISK FACTORS**

An investment in our securities involves a high degree of risk. You should carefully consider the risks described in our filings with the SEC referred to under the heading “Where You Can Find More Information,” including our most recent annual report on Form 10-K and quarterly reports on Form 10-Q and other reports and documents we file with the SEC after the date of this prospectus that are incorporated by reference herein, together with all of the other information included in this prospectus, the applicable prospectus supplement and the documents we incorporate by reference.

If any of these risks were to occur, our business, financial condition, results of operations or cash flows could be adversely affected. You could lose all or part of your investment. When we offer and sell any securities pursuant to a prospectus supplement, we may include additional risk factors relevant to that offering in the prospectus supplement.

## **FORWARD-LOOKING STATEMENTS**

Statements included in this prospectus, including the information we incorporate by reference, regarding future financial performance, capital sources and results of operations and other statements, other than statements of historical fact, that address activities, events or developments that we expect, believe or anticipate will or may occur in the future are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 (the “Securities Act”) and Section 21E of the Exchange Act. Such statements are those concerning strategic plans, expectations and objectives for future operations and performance. When used in this prospectus, the words “believes,” “expects,” “anticipates,” “plans,” “intends,” “estimates,” “projects,” “could,” “should,” “may,” or similar expressions are intended to be among the statements that identify forward-looking statements.

Forward-looking statements may include statements about:

- business strategy;
- cash flows and liquidity;
- the volatility and impact of recent significant declines in oil and natural gas prices;

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- the availability of raw materials and specialized equipment;
- our ability to accurately predict customer demand;
- customer order cancellations or deferrals;
- competition in the oil and gas industry;
- governmental regulation and taxation of the oil and natural gas industry;
- environmental liabilities;
- political, social and economic issues affecting the countries in which we do business;
- our ability to deliver our backlog in a timely fashion;
- availability and terms of capital;
- general economic conditions;
- our ability to successfully manage our growth, including risks and uncertainties associated with integrating and retaining key employees of the businesses we acquire;
- benefits of our acquisitions;
- availability of key management personnel;
- availability of skilled and qualified labor;
- operating hazards inherent in our industry;
- the continued influence of our largest shareholder;
- the ability to establish and maintain effective internal control over financial reporting;
- financial strategy, budget, projections and operating results;
- uncertainty regarding our future operating results; and
- plans, objectives, expectations and intentions contained in this prospectus that are not historical.

Such statements are subject to numerous risks, uncertainties and assumptions that are beyond our ability to control, including, but not limited to, the risks and uncertainties described under “Risk Factors” above and in our most recent annual report on Form 10-K and quarterly reports on Form 10-Q.

Forward-looking statements are made based upon management’s current plans, expectations, estimates, assumptions and beliefs concerning future events impacting us and therefore involve a number of risks and uncertainties. We caution that forward-looking statements are not guarantees and that actual results could differ materially from those expressed or implied in the forward-looking statements. Undue reliance should not be placed on these forward-looking statements, which are applicable only on the date hereof. We undertake no obligation to revise or update these forward-looking statements to reflect events or circumstances that arise after the date hereof or to reflect the occurrence of unanticipated events.

## USE OF PROCEEDS

Unless we inform you otherwise in an applicable prospectus supplement, we expect to use the net proceeds from the sale of securities offered by us under this prospectus for general corporate purposes. These purposes may include:

- capital expenditures;
- acquisitions;
- working capital; and
- repayment, refinancing or redemption of indebtedness or other securities.

Pending any specific application, we may initially invest funds in short-term marketable securities or apply them to the reduction of short-term indebtedness.

## RATIO OF EARNINGS TO FIXED CHARGES AND COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS TO EARNINGS

The table below sets forth our ratio of earnings to fixed charges on a consolidated basis for each of the periods indicated:

	Six Months Ended June 30, 2016	Years Ended December 31,				
		2015	2014	2013	2012	2011
Ratio of earnings to fixed charges	** (1)	** (1)	7.6x	8.5x	11.2x	7.1x

- (1) Earnings were inadequate to cover fixed charges. The coverage deficiency for the six months ended June 30, 2016 and year ended December 31, 2015 was \$83 million and \$134 million, respectively.

For purposes of this table, "earnings" consists of income before income taxes plus fixed charges. "Fixed charges" consists of interest expense and the portion of rent expense we believe is representative of the interest factor. We had no preferred stock outstanding for any period presented, and accordingly, the ratio of combined fixed charges and preferred stock dividends to earnings is the same as the ratio of earnings to fixed charges.

## DESCRIPTION OF DEBT SECURITIES

The debt securities covered by this prospectus will be our general unsecured obligations. We will issue senior debt securities under an indenture to be entered into among us, any subsidiary guarantors and a trustee we will name in the prospectus supplement relating to senior debt securities. We refer to this indenture as the senior indenture. We will issue subordinated debt securities under an indenture to be entered into among us, any subsidiary guarantors and a trustee we will name in the prospectus supplement relating to subordinated debt securities. We refer to this indenture as the subordinated indenture. We refer to the senior indenture and the subordinated indenture collectively as the indentures. The indentures will be substantially identical, except for provisions relating to subordination.

We have summarized material provisions of the indentures and the debt securities below. This summary is not complete. We have filed the forms of indentures with the SEC as exhibits to the registration statement, and you should read the indentures for provisions that may be important to you. Please read “Where You Can Find More Information.”

In addition, we may issue pursuant to this prospectus additional amounts of our 6.25% Senior Notes due 2021. If we issue additional amounts of such notes, a complete description of their terms would be included in a prospectus supplement. We have filed the indenture relating to our 6.25% Senior Notes due 2021 as an exhibit to this Registration Statement, and you should read the indenture for provisions that may be important to you.

In this summary description of the debt securities, unless we state otherwise or the context clearly indicates otherwise, all references to “we,” “us” or “our” refer to Forum Energy Technologies, Inc. only and not to any of its subsidiaries.

### General

Neither indenture limits the amount of debt securities that may be issued under that indenture, and neither limits the amount of other unsecured debt or securities that we may issue. We may issue debt securities under the indentures from time to time in one or more series, each in an amount authorized prior to issuance.

The senior debt securities will constitute our senior unsecured indebtedness and will rank equally in right of payment with all of our other unsecured and unsubordinated debt and senior in right of payment to all of our subordinated indebtedness. The senior debt securities will be effectively subordinated to, and thus have a junior position to, our secured indebtedness with respect to the assets securing that indebtedness. The subordinated debt securities will rank junior to all of our senior indebtedness and may rank equally with or senior to other subordinated indebtedness we may issue from time to time.

We currently conduct our operations through both U.S. and foreign subsidiaries, and our operating income and cash flow are generated by our subsidiaries. As a result, cash we obtain from our subsidiaries is the principal source of funds necessary to meet our debt service obligations. Contractual provisions or laws, as well as our subsidiaries’ financial condition and operating requirements, may limit our ability to obtain cash from our subsidiaries that we require to pay our debt service obligations, including payments on the debt securities. In addition, holders of the debt securities will have a junior position to the claims of creditors, including trade creditors and tort claimants, of our subsidiaries on their assets and earnings.

Neither indenture contains any covenants or other provisions designed to protect holders of the debt securities in the event we participate in a highly leveraged transaction or upon a change of control. The indentures also do not contain provisions that give holders of the debt securities the right to require us to repurchase their securities in the event of a decline in our credit rating for any reason, including as a result of a takeover, recapitalization or similar restructuring or otherwise.



## Terms

The prospectus supplement relating to any series of debt securities being offered will include specific terms relating to the offering. These terms will include some or all of the following:

- whether the debt securities will be senior or subordinated debt securities;
- the price at which we will issue the debt securities;
- the title of the debt securities;
- the total principal amount of the debt securities;
- whether we will issue the debt securities in individual certificates to each holder or in the form of temporary or permanent global securities held by a depository on behalf of holders;
- the date or dates on which the principal of and any premium on the debt securities will be payable;
- any interest rate, the date from which interest will accrue, interest payment dates and record dates for interest payments;
- whether and under what circumstances we will pay any additional amounts with respect to the debt securities;
- the place or places where payments on the debt securities will be payable;
- any provisions for optional redemption or early repayment;
- any sinking fund or other provisions that would obligate us to redeem, purchase or repay the debt securities;
- the denominations in which we will issue the debt securities if other than \$1,000 and integral multiples of \$1,000;
- whether payments on the debt securities will be payable in foreign currency or currency unit or another form and whether payments will be payable by reference to any index or formula;
- the portion of the principal amount of debt securities that will be payable if the maturity is accelerated, if other than the entire principal amount;
- any additional means of defeasance of the debt securities, any additional conditions or limitations to defeasance of the debt securities or any changes to those conditions or limitations;
- any changes or additions to the events of default or covenants described in this prospectus;
- any restrictions or other provisions relating to the transfer or exchange of debt securities;
- any terms for the conversion or exchange of the debt securities for other securities;
- with respect to the subordinated indenture, any changes to the subordination provisions for the subordinated debt securities; and
- any other terms of the debt securities not inconsistent with the applicable indenture.

We may sell the debt securities at a discount, which may be substantial, below their stated principal amount. These debt securities may bear no interest or interest at a rate that at the time of issuance is below market rates. If we sell these debt securities, we will describe in the prospectus supplement any material United States federal income tax consequences and other special considerations.

If we sell any of the debt securities for any foreign currency or currency unit or if payments on the debt securities are payable in any foreign currency or currency unit, we will describe in the prospectus supplement the restrictions, elections, tax consequences, specific terms and other information relating to those debt securities and the foreign currency or currency unit.

## **Subordination**

Under the subordinated indenture, payment of the principal of and any premium and interest on the subordinated debt securities will generally be subordinated and junior in right of payment to the prior payment in full of all Senior Debt (as defined below). Unless we inform you otherwise in the prospectus supplement, we may not make any payment of principal of or any premium or interest on the subordinated debt securities if:

- we fail to pay the principal, interest, premium or any other amounts on any Senior Debt when due; or
- we default in performing any other covenant (a “covenant default”) on any Senior Debt that we have designated if the covenant default allows the holders of that Senior Debt to accelerate the maturity of the Senior Debt they hold.

Unless we inform you otherwise in the prospectus supplement, a covenant default will prevent us from paying the subordinated debt securities only for up to 179 days after holders of the designated Senior Debt give the trustee for the subordinated debt securities notice of the covenant default.

The subordination does not affect our obligation, which is absolute and unconditional, to pay, when due, the principal of and any premium and interest on the subordinated debt securities. In addition, the subordination does not prevent the occurrence of any default under the subordinated indenture.

The subordinated indenture does not limit the amount of Senior Debt that we may incur. As a result of the subordination of the subordinated debt securities, if we become insolvent, holders of subordinated debt securities may receive less on a proportionate basis than other creditors.

Unless we inform you otherwise in the prospectus supplement, “Senior Debt” will mean all of our indebtedness, including guarantees, unless the indebtedness states that it is not senior to the subordinated debt securities or our other junior debt. Senior Debt with respect to a series of subordinated debt securities could include other series of debt securities issued under the subordinated indenture.

## **Guarantees**

If specified in the prospectus supplement, our payment obligations under any series of the debt securities may be jointly and severally guaranteed by one or more of our subsidiaries. Such guarantees will be full and unconditional. If a series of debt securities is so guaranteed by any of our subsidiaries, such subsidiaries will execute a supplemental indenture or notation of guarantee as further evidence of their guarantee. The applicable prospectus supplement will describe the terms of any guarantee by our subsidiaries.

The obligations of each subsidiary under its subsidiary guarantee may be limited to the maximum amount that will not result in such guarantee obligations constituting a fraudulent conveyance or fraudulent transfer under federal or state law, after giving effect to all other contingent and fixed liabilities of that subsidiary and any collections from or payments made by or on behalf of any other subsidiary guarantor in respect of its obligations under its subsidiary guarantee.

Each indenture may restrict consolidations or mergers with or into a subsidiary guarantor or provide for the release of a subsidiary from a subsidiary guarantee, as set forth in a related prospectus supplement, the applicable indenture and any applicable related supplemental indenture.

If a series of debt securities is guaranteed by any of our future subsidiaries and is designated as subordinate to our senior debt, then the guarantee by those subsidiaries will be subordinated to such subsidiary’s senior debt and will be subordinated to any guarantees by those subsidiaries of our senior debt. See “—Subordination.”

## **Consolidation, Merger and Sales of Assets**

The indentures generally permit a consolidation or merger involving us. They also permit us to sell, lease, convey, assign, transfer or otherwise dispose of all or substantially all of our assets. We have agreed, however,

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that we will not consolidate with or merge into any entity or sell, lease, convey, assign, transfer or dispose of all or substantially all of our assets to any entity unless:

- (1) either
  - we are the continuing entity, or
  - if we are not the continuing entity, the resulting entity is organized under the laws of any United States jurisdiction and assumes by a supplemental indenture the due and punctual payments on the debt securities and the performance of our covenants and obligations under the indentures, and
- (2) immediately after giving effect to the transaction, no default or event of default under the indentures has occurred and is continuing or would result from the transaction.

This covenant will not apply to any merger of another entity into us. Upon any transaction of the type described in and effected in accordance with this section, the resulting entity will succeed to and be substituted for us and may exercise all of our rights and powers under the applicable indenture and the debt securities with the same effect as if the resulting entity had been named as us in the indenture. In the case of any asset transfer or disposition other than a lease, when the resulting entity assumes all of our obligations and covenants under the applicable indenture and the debt securities, we will be relieved of all such obligations.

### **Events of Default**

Unless we inform you otherwise in the applicable prospectus supplement, the following are events of default with respect to a series of debt securities:

- our failure to pay interest on any debt security of that series for 30 days when due;
- our failure to pay principal of or any premium on any debt security of that series when due;
- our failure to deposit any sinking fund payment for 30 days when due;
- our failure to comply with any covenant or agreement in that series of debt securities or the applicable indenture (other than an agreement or covenant that has been included in the indenture solely for the benefit of other series of debt securities) for 90 days after written notice by the trustee or by the holders of at least 25% in principal amount of the outstanding debt securities issued under that indenture that are affected by that failure;
- specified events involving bankruptcy, insolvency or reorganization of us; and
- any other event of default provided for that series of debt securities.

A default under one series of debt securities will not necessarily be a default under any other series. If a default or event of default for any series of debt securities occurs, is continuing and is known to the trustee, the trustee will notify the holders of applicable debt securities within 90 days after it occurs. The trustee may withhold notice to the holders of the debt securities of any default or event of default, except in any payment on the debt securities, if the trustee in good faith determines that withholding notice is in the interests of the holders of those debt securities.

If an event of default for any series of debt securities occurs and is continuing, the trustee or the holders of at least 25% in principal amount of the outstanding debt securities of the series affected by the default (or, in some cases, 25% in principal amount of all debt securities issued under the applicable indenture that are affected, voting as one class) may declare the principal of and all accrued and unpaid interest on those debt securities to be due and payable immediately. If an event of default relating to certain events of bankruptcy, insolvency or reorganization of our company occurs, the principal of and accrued and unpaid interest on all the debt securities issued under the applicable indenture will become immediately due and payable without any action on the part of the trustee or any holder. At any time after a declaration of acceleration has been made, the holders of a majority in principal amount of the outstanding debt securities of the series affected by the default (or, in some cases, of all debt securities issued under the applicable indenture that are affected, voting as one class) may in some cases rescind this accelerated payment requirement and its consequences.

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A holder of a debt security of any series issued under an indenture may pursue any remedy under that indenture only if:

- the holder gives the trustee written notice of a continuing event of default with respect to that series;
- the holders of at least 25% in principal amount of the outstanding debt securities of that series make a written request to the trustee to pursue the remedy;
- the holders offer to the trustee indemnity satisfactory to the trustee against any loss, liability or expense;
- the trustee does not comply with the request within 60 days after receipt of the request and offer of indemnity; and
- during that 60-day period, the holders of a majority in principal amount of the debt securities of that series do not give the trustee a direction inconsistent with the request.

This provision does not, however, affect the right of a holder of a debt security to sue for enforcement of any overdue payment.

In most cases, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request or direction of any of the holders unless those holders have offered to the trustee indemnity satisfactory to it. Subject to this provision for indemnification, the holders of a majority in principal amount of the outstanding debt securities of a series (or of all debt securities issued under the applicable indenture that are affected, voting as one class) generally may direct the time, method and place of:

- conducting any proceeding for any remedy available to the trustee; or
- exercising any trust or power conferred on the trustee relating to or arising as a result of an event of default.

If an event of default occurs and is continuing, the trustee will be required to use the degree of care and skill of a prudent person in the conduct of his own affairs.

The indentures require us to furnish to the trustee annually a statement as to our performance of certain of our obligations under the indentures and as to any default in performance.

### **Modification and Waiver**

We and the trustee may supplement or amend each indenture with the consent of the holders of at least a majority in principal amount of the outstanding debt securities of all series issued under that indenture that are affected by the amendment or supplement (voting as one class). Without the consent of the holder of each debt security affected, however, no modification may:

- reduce the amount of debt securities whose holders must consent to an amendment, supplement or waiver;
- reduce the rate of or change the time for payment of interest on the debt security;
- reduce the principal of the debt security or change its stated maturity;
- reduce any premium payable on the redemption of the debt security or change the time at which the debt security may or must be redeemed;
- change any obligation to pay additional amounts on the debt security;
- make payments on the debt security payable in currency other than as originally stated in the debt security;

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- impair the holder's right to institute suit for the enforcement of any payment on or with respect to the debt security;
- make any change in the percentage of principal amount of debt securities necessary to waive compliance with certain provisions of the indenture or to make any change in the provision related to modification;
- with respect to the subordinated indenture, modify the provisions relating to the subordination of any subordinated debt security in a manner adverse to the holder of that security;
- waive a continuing default or event of default regarding any payment on the debt securities; or
- if applicable, make any change that materially and adversely affects the right to convert any debt security.

We and the trustee may supplement or amend each indenture or waive any provision of that indenture without the consent of any holders of debt securities issued under that indenture in certain circumstances, including:

- to cure any ambiguity, omission, defect or inconsistency;
- to provide for the assumption of our obligations under the indenture by a successor upon any merger, consolidation or asset transfer permitted under the indenture;
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities or to provide for bearer debt securities;
- to provide any security for, or to add any guarantees of or obligors on, any series of debt securities;
- to comply with any requirement to effect or maintain the qualification of that indenture under the Trust Indenture Act of 1939;
- to add covenants that would benefit the holders of any debt securities or to surrender any rights we have under the indenture;
- to add events of default with respect to any series of debt securities;
- to make any change that does not adversely affect any outstanding debt securities of any series issued under that indenture in any material respect; and
- to establish the form or terms of any debt securities and to accept the appointment of a successor trustee, each as permitted under the indenture.

The holders of a majority in principal amount of the outstanding debt securities of any series (or, in some cases, of all debt securities issued under the applicable indenture that are affected, voting as one class) may waive any existing or past default or event of default with respect to those debt securities. Those holders may not, however, waive any default or event of default in any payment on any debt security or compliance with a provision that cannot be amended or supplemented without the consent of each holder affected.

### **Defeasance and Discharge**

*Defeasance.* When we use the term defeasance, we mean discharge from some or all of our obligations under an indenture. If we deposit with the trustee under an indenture any combination of money or government securities sufficient to make payments on the debt securities of a series issued under that indenture on the dates those payments are due, then, at our option, either of the following will occur:

- we will be discharged from our obligations with respect to the debt securities of that series ("legal defeasance"); or

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- we will no longer have any obligation to comply with specified restrictive covenants with respect to the debt securities of that series, the covenant described under “— Consolidation, Merger and Sales of Assets” and other specified covenants under the applicable indenture, and the related events of default will no longer apply (“covenant defeasance”).

If a series of debt securities is defeased, the holders of the debt securities of that series will not be entitled to the benefits of the applicable indenture, except for obligations to register the transfer or exchange of debt securities, replace stolen, lost or mutilated debt securities or maintain paying agencies and hold money for payment in trust. In the case of covenant defeasance, our obligation to pay principal, premium and interest on the debt securities will also survive.

Unless we inform you otherwise in the prospectus supplement, we will be required to deliver to the trustee an opinion of counsel that the deposit and related defeasance would not cause the holders of the debt securities to recognize income, gain or loss for U.S. federal income tax purposes and that the holders would be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if the deposit and related defeasance had not occurred. If we elect legal defeasance, that opinion of counsel must be based upon a ruling from the United States Internal Revenue Service or a change in law to that effect.

Under current U.S. federal income tax law, legal defeasance would likely be treated as a taxable exchange of debt securities to be defeased for interests in the defeasance trust. As a consequence, a United States holder would recognize gain or loss equal to the difference between the holder’s cost or other tax basis for the debt securities and the value of the holder’s interest in the defeasance trust, and thereafter would be required to include in income a share of the income, gain or loss of the defeasance trust. Under current U.S. federal income tax law, covenant defeasance would not be treated as a taxable exchange of such debt securities.

*Satisfaction and Discharge.* In addition, an indenture will cease to be of further effect with respect to the debt securities of a series issued under that indenture, subject to exceptions relating to compensation and indemnity of the trustee under that indenture and repayment to us of excess money or government securities, when:

- either
  - all outstanding debt securities of that series have been delivered to the trustee for cancellation; or
  - all outstanding debt securities of that series not delivered to the trustee for cancellation either:
    - have become due and payable,
    - will become due and payable at their stated maturity within one year, or
    - are to be called for redemption within one year; and
- we have deposited with the trustee any combination of money or government securities in trust sufficient to pay the entire indebtedness on the debt securities of that series when due; and
- we have paid all other sums payable by us with respect to the debt securities of that series.

## **Governing Law**

New York law will govern the indentures and the debt securities.

## **The Trustees**

We will name the trustee under the applicable indenture in the prospectus supplement. Each indenture contains limitations on the right of the trustee, if it or any of its affiliates is then our creditor, to obtain payment of claims or to realize on certain property received for any such claim, as security or otherwise. The trustee and its affiliates are permitted to engage in other transactions with us. If, however, the trustee acquires any conflicting

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interest, it must eliminate that conflict or resign within 90 days after ascertaining that it has a conflicting interest and after the occurrence of a default under the applicable indenture, unless the default has been cured, waived or otherwise eliminated within the 90-day period.

### **Payment and Paying Agents**

Unless we inform you otherwise in a prospectus supplement, we will make payments on the debt securities in U.S. dollars at the office of the trustee and any paying agent. At our option, however, payments may be made by wire transfer for global debt securities or by check mailed to the address of the person entitled to the payment as it appears in the security register. Unless we inform you otherwise in a prospectus supplement, we will make interest payments to the person in whose name the debt security is registered at the close of business on the record date for the interest payment.

Unless we inform you otherwise in a prospectus supplement, the trustee under the applicable indenture will be designated as the paying agent for payments on debt securities issued under that indenture. We may at any time designate additional paying agents or rescind the designation of any paying agent or approve a change in the office through which any paying agent acts.

If the principal of or any premium or interest on debt securities of a series is payable on a day that is not a business day, the payment will be made on the following business day. For these purposes, unless we inform you otherwise in a prospectus supplement, a “business day” is any day that is not a Saturday, a Sunday or a day on which banking institutions in either of New York, New York or a place of payment on the debt securities of that series is authorized or obligated by law, regulation or executive order to remain closed.

Subject to the requirements of any applicable abandoned property laws, the trustee and paying agent will pay to us upon written request any money held by them for payments on the debt securities that remains unclaimed for two years after the date upon which that payment has become due. After payment to us, holders entitled to the money must look to us for payment. In that case, all liability of the trustee or paying agent with respect to that money will cease.

### **Form, Exchange, Registration and Transfer**

We will issue the debt securities in registered form, without interest coupons. Debt securities of any series will be exchangeable for other debt securities of the same series, the same total principal amount and the same terms but in different authorized denominations in accordance with the applicable indenture. Holders may present debt securities for registration of transfer at the office of the security registrar or any transfer agent designated by us. The security registrar or transfer agent will effect the transfer or exchange if its requirements and the requirements of the applicable indenture are met. We will not charge a service charge for any registration of transfer or exchange of the debt securities. We may, however, require payment of any transfer tax or similar governmental charge payable for that registration.

We will appoint the trustee as security registrar for the debt securities. If a prospectus supplement refers to any transfer agents we initially designate, we may at any time rescind that designation or approve a change in the location through which any transfer agent acts. We are required to maintain an office or agency for transfers and exchanges in each place of payment. We may at any time designate additional transfer agents for any series of debt securities.

In the case of any redemption of debt securities of a series or any repurchase of debt securities of a series required under the terms of the series, we will not be required to register the transfer or exchange of:

- any debt security of that series during a period beginning 15 business days prior to the mailing of the relevant notice of redemption or repurchase and ending on the close of business on the day of mailing of such notice; or
- any debt security of that series that has been called for redemption in whole or in part, except the unredeemed portion of any debt security being redeemed in part.

**Book-Entry Debt Securities**

We may issue the debt securities of a series in the form of one or more global debt securities that would be deposited with a depository or its nominee identified in the prospectus supplement. We may issue global debt securities in either temporary or permanent form. We will describe in the prospectus supplement the terms of any depository arrangement and the rights and limitations of owners of beneficial interests in any global debt security.



## DESCRIPTION OF CAPITAL STOCK

Our authorized capital stock consists of 296 million shares of common stock, par value \$0.01 per share, and 3.7 million shares of preferred stock, par value \$0.01 per share. The following describes our common stock, preferred stock, amended and restated certificate of incorporation and bylaws. This description is a summary only. We encourage you to read the complete text of our certificate of incorporation and bylaws, which we have filed or incorporated by reference as exhibits to the registration statement of which this prospectus is a part.

### Common Stock

Except as provided by law or in a preferred stock designation, holders of our common stock are entitled to one vote for each share held of record on all matters submitted to a vote of the stockholders. Because holders of our common stock have the exclusive right to vote for the election of directors and do not have cumulative voting rights, the holders of a majority of the shares of our common stock can elect all of the members of the board of directors standing for election, subject to the rights, powers and preferences of any outstanding series of preferred stock. Subject to the rights and preferences of any preferred stock that we may issue in the future, the holders of our common stock are entitled to receive:

- dividends as may be declared by our board of directors; and
- all of our assets available for distribution to holders of our common stock in liquidation, pro rata, based on the number of shares held.

There are no redemption or sinking fund provisions applicable to our common stock.

### Preferred Stock

Subject to the provisions of our certificate of incorporation and legal limitations, our board of directors will have the authority, without further vote or action by our stockholders:

- to issue up to 3,700,000 shares of preferred stock in one or more series; and
- to fix the rights, preferences, privileges and restrictions of our preferred stock, including provisions related to dividends, conversion, voting, redemption, liquidation and the number of shares constituting the series or the designation of that series, which may be superior to those of our common stock.

The prospectus supplement relating to any series of preferred stock we offer will include specific terms relating to the offering and the name of any transfer agent for that series. We will file the form of the preferred stock with the SEC before we issue any of it, and you should read it for provisions that may be important to you. The prospectus supplement will include some or all of the following terms:

- the title of the preferred stock;
- the maximum number of shares of the series;
- the dividend rate or the method of calculating the dividend, the date from which dividends will accrue and whether dividends will be cumulative;
- any terms for the conversion or exchange of the preferred stock for other securities of us or any other entity;
- any sinking fund or other provisions that would obligate us to redeem or purchase the preferred stock;
- any redemption provisions;
- any liquidation preference;
- any voting rights; and

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- any other preferences and relative, participating, optional or other special rights or any qualifications, limitations or restrictions on the rights of the shares.

The issuance of shares of preferred stock by our board of directors as described above may adversely affect the rights of the holders of our common stock. For example, preferred stock may rank prior to our common stock as to dividend rights, liquidation preference or both, may have full or limited voting rights and may be convertible into shares of our common stock. The issuance of shares of preferred stock may discourage third-party bids for our common stock or may otherwise adversely affect the market price of our common stock. In addition, preferred stock may enable our board of directors to make it more difficult or to discourage attempts to obtain control of us through a hostile tender offer, proxy contest, merger or otherwise, or to make changes in our management.

### **Anti-takeover effects of provisions of our certificate of incorporation, our bylaws and Delaware law**

Some provisions of Delaware law, our certificate of incorporation and our bylaws could make certain change of control transactions more difficult, including acquisitions of us by means of a tender offer, a proxy contest or otherwise, as well as removal of our incumbent officers and directors. These provisions may also have the effect of preventing changes in our management. It is possible that these provisions could make it more difficult to accomplish or could deter transactions that stockholders may otherwise consider to be in their best interest or in our best interests, including transactions that might result in a premium over the market price for our shares.

These provisions, summarized below, are intended to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of increased protection and our potential ability to negotiate with the proponent of an unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging these proposals because, among other things, negotiation of these proposals could result in an improvement of their terms.

#### *Opt out of Section 203 of the Delaware General Corporation Law*

In our certificate of incorporation, we have elected not to be subject to the provisions of Section 203 of the Delaware General Corporation Law (the "DGCL") regulating corporate takeovers until the date on which the SCF group (as defined below) is no longer the holder of at least 15% of our outstanding common stock. On and after such date, we will be subject to the provisions of Section 203 of the DGCL. In general, those provisions prohibit a Delaware corporation, including those whose securities are listed for trading on the NYSE, from engaging in any business combination with any interested stockholder for a period of three years following the date that the stockholder became an interested stockholder, unless:

- the transaction is approved by the board of directors before the date the interested stockholder attained that status;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced; or
- on or after the date the interested stockholder attained that status, the business combination is approved by the board of directors and authorized at a meeting of stockholders by at least two-thirds of the outstanding voting stock that is not owned by the interested stockholder.

#### *Certificate of Incorporation and Bylaws*

Among other things, our certificate of incorporation and bylaws:

- establish advance notice procedures with regard to stockholder proposals relating to the nomination of candidates for election as directors or new business to be brought before meetings of our stockholders. These procedures provide that notice of stockholder proposals must be timely given in writing to our corporate secretary prior to the meeting at which the action is to be taken. Generally, to be timely,

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notice must be received at our principal executive offices not less than 90 days nor more than 120 days prior to the first anniversary date of the annual meeting for the preceding year. Our bylaws specify the requirements as to form and content of all stockholders' notices. These requirements may preclude stockholders from bringing matters before the stockholders at an annual or special meeting to the extent they do not comply with the requirements in these advance notice procedures;

- provide our board of directors the ability to authorize the issuance of undesignated preferred stock. This makes it possible for our board of directors to issue, without stockholder approval, preferred stock with voting or other rights or preferences that could impede the success of any attempt to change control of us;
- provide that the authorized number of directors may be changed only by resolution of the board of directors;
- provide that all vacancies, including newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- provide that any action required or permitted to be taken by the stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by any consent in writing in lieu of a meeting of such stockholders, subject to the rights of the holders of any series of preferred stock;
- provide that our certificate of incorporation and bylaws may be amended by the affirmative vote of the holders of at least two-thirds of our then outstanding common stock;
- provide that special meetings of our stockholders may only be called by the board of directors, the chief executive officer, the president, the secretary, the chairman of the board or by stockholders holding a majority of the outstanding shares entitled to vote generally in the election of directors;
- provide for our board of directors to be divided into three classes of directors, with each class as nearly equal in number as possible, serving staggered three year terms, other than directors who may be elected by holders of preferred stock, if any. This system of electing and removing directors may tend to discourage a third party from making a tender offer or otherwise attempting to obtain control of us, because it generally makes it more difficult for stockholders to replace a majority of the directors;
- provide that a member of our board of directors may only be removed for cause and only by the affirmative vote of the holders of at least two-thirds of our then outstanding common stock; and
- provide that we renounce any interest in the business opportunities of the SCF group or any of their officers, directors, agents, stockholders, members, partners, affiliates and subsidiaries (other than our directors that are presented business opportunities in their capacity as our directors) and that they have no obligation to offer us those opportunities.

### **Renouncement of Business Opportunities**

SCF-V, L.P., SCF-VI, L.P. and SCF-VII, L.P. (collectively, "SCF") have investments in other oilfield service companies that may compete with us, and SCF and its affiliates, other than us, may invest in such other companies in the future. SCF, its other affiliates and its portfolio companies are referred to as the "SCF group." Our certificate of incorporation provides that, until we have had no directors that are directors or officers affiliated with SCF (each, an "SCF Nominee") for a continuous period of one year, we renounce any interest in any business opportunity in which any member of the SCF group participates or desires or seeks to participate in and that involves any aspect of the energy equipment or services business or industry, other than:

- any business opportunity that is brought to the attention of an SCF Nominee solely in such person's capacity as our director or officer and with respect to which no other member of the SCF group independently receives notice or otherwise identifies such opportunity; or

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- any business opportunity that is identified by the SCF group solely through the disclosure of information by or on behalf of us.

In addition, L.E. Simmons & Associates, Incorporated (“LESA”), the ultimate general partner of SCF, has an internal policy that discourages it from investing in two or more portfolio companies with substantially overlapping industry segments and geographic areas. However, LESA’s internal policy does not restrict the management or operation of its other individual portfolio companies from competing with us. Pursuant to LESA’s policy, LESA may allocate any potential opportunities to the existing portfolio company where LESA determines, in its discretion, such opportunities are the most logical strategic and operational fit. Thus, members of the SCF group, which includes any SCF Nominees, may pursue opportunities in the oilfield services industry for their own account or present such opportunities to us or one of SCF’s other portfolio companies. Our certificate of incorporation provides that the SCF group, which includes any SCF Nominees, has no obligation to offer such opportunities to us, even if the failure to provide such opportunity would have a competitive impact on us. We are not prohibited from pursuing any business opportunity with respect to which we have renounced any interest.

Our certificate of incorporation further provides that any amendment to or adoption of any provision inconsistent with the certificate of incorporation’s provisions governing the renouncement of business opportunities must be approved by the holders of at least 80% of the voting power of the outstanding stock of the corporation entitled to vote thereon.

### **Amendment of the Bylaws**

Our board of directors may amend or repeal the bylaws and adopt new bylaws by the affirmative vote of a majority of the whole board of directors. The stockholders may amend or repeal the bylaws and adopt new bylaws by the affirmative vote of the holders of at least two-thirds of our then outstanding common stock at any annual meeting or special meeting for which notice of the proposed amendment, repeal or adoption was contained in the notice for such special meeting.

### **Limitation of Liability and Indemnification of Officers and Directors**

Our directors will not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except, if required by Delaware law, for liability:

- for any breach of the duty of loyalty to us or our stockholders;
- for acts or omissions not in good faith or involving intentional misconduct or a knowing violation of law;
- for unlawful payment of a dividend or unlawful stock purchases or redemptions; or
- for any transaction from which the director derived an improper personal benefit.

As a result, neither we nor our stockholders have the right, through stockholders’ derivative suits on our behalf, to recover monetary damages against a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior, except in the situations described above. We have entered into indemnification agreements with each of our other current directors and officers.

### **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, LLC.

### **Market Information**

Our common stock is listed on the New York Stock Exchange under the symbol “FET.”

## DESCRIPTION OF WARRANTS

We may issue warrants to purchase any combination of debt securities, common stock, preferred stock or other securities of our company or any other entity. We may issue warrants independently or together with other securities. Warrants sold with other securities may be attached to or separate from the other securities. We will issue warrants under one or more warrant agreements between us and a warrant agent that we will name in the prospectus supplement.

The prospectus supplement relating to any warrants we are offering will include specific terms relating to the offering. We will file the form of any warrant agreement with the SEC, and you should read the warrant agreement for provisions that may be important to you. The prospectus supplement will include some or all of the following terms:

- the title of the warrants;
- the aggregate number of warrants offered;
- the designation, number and terms of the debt securities, common stock, preferred stock or other securities purchasable upon exercise of the warrants, and procedures by which those numbers may be adjusted;
- the exercise price of the warrants;
- the dates or periods during which the warrants are exercisable;
- the designation and terms of any securities with which the warrants are issued;
- if the warrants are issued as a unit with another security, the date, if any, on and after which the warrants and the other security will be separately transferable;
- if the exercise price is not payable in U.S. dollars, the foreign currency, currency unit or composite currency in which the exercise price is denominated;
- any minimum or maximum amount of warrants that may be exercised at any one time; and
- any terms, procedures and limitations relating to the transferability, exchange or exercise of the warrants.

## PLAN OF DISTRIBUTION

We may sell the securities on a delayed or continuous basis in and outside the United States through underwriters or dealers as designated from time to time, directly to purchasers, through agents or through a combination of these methods.

### **Sale Through Underwriters or Dealers**

If we use underwriters in the sale of securities, the underwriters will acquire the securities for their own account. The underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Underwriters may offer securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless we inform you otherwise in the prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to conditions, and the underwriters will be obligated to purchase all the offered securities if they purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers.

Underwriters may sell shares of our common stock under this prospectus by any method permitted by law deemed to be an “at the market” offering as defined in Rule 415 under the Securities Act, which includes sales made directly on the NYSE, on any other existing trading market for shares of our common stock or to or through a market maker, or in privately negotiated transactions. Unless we inform you otherwise in the prospectus supplement, the sales agent with respect to any such at-the-market offering will make all sales using commercially reasonable efforts consistent with its normal trading and sales practices, on mutually agreeable terms between the sales agent and us. We will include in the prospectus supplement the amount of any compensation to be received by the sales agent.

During and after an offering through underwriters, the underwriters may purchase and sell the securities in the open market. These transactions may include overallocation and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. The underwriters also may impose a penalty bid, which means that selling concessions allowed to syndicate members or other broker-dealers for the offered securities sold for their account may be reclaimed by the syndicate if the offered securities are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the offered securities, which may be higher than the price that might otherwise prevail in the open market. If commenced, the underwriters may discontinue these activities at any time.

If we use dealers in the sale of securities, we will sell the securities to them as principals. They may then resell those securities to the public at varying prices determined by the dealers at the time of resale. The dealers participating in any sale of the securities may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of those securities. We will include in the prospectus supplement the names of the dealers and the terms of the transaction.

### **Direct Sales and Sales Through Agents**

We may sell the securities directly. In that event, no underwriters or agents would be involved. We may also sell the securities through agents we designate from time to time. In the prospectus supplement, we will name any agent involved in the offer or sale of the offered securities, and we will describe any commissions payable by us to the agent. Unless we inform you otherwise in the prospectus supplement, any agent will agree to use its reasonable best efforts to solicit purchases for the period of its appointment.

We may sell the securities directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of those securities. We will describe the terms of any such sales in the prospectus supplement.

### **Delayed Delivery Contracts**

If we so indicate in the prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities from us at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The prospectus supplement will describe the commission payable for solicitation of those contracts.

### **Remarketing**

We may offer and sell any of the securities in connection with a remarketing upon their purchase, in accordance with a redemption or repayment by their terms or otherwise, by one or more remarketing firms acting as principals for their own accounts or as our agents. We will identify any remarketing firm, the terms of any remarketing agreement and the compensation to be paid to the remarketing firm in the prospectus supplement. Remarketing firms may be deemed underwriters under the Securities Act.

### **Derivative Transactions**

We may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third parties may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third parties in these sale transactions will be underwriters and will be identified in the applicable prospectus supplement or in a post-effective amendment to the registration statement of which this prospectus forms a part.

### **General Information**

We may have agreements with the agents, dealers and underwriters to indemnify them against certain civil liabilities, including liabilities under the Securities Act, or to contribute with respect to payments that the agents, dealers or underwriters may be required to make. Agents, dealers and underwriters may be customers of, engage in transactions with or perform services for us in the ordinary course of their businesses.

## **LEGAL MATTERS**

Certain legal matters in connection with this offering will be passed upon for us by Baker Botts L.L.P., Houston, Texas. Any underwriters will be advised about other issues relating to any offering by their own legal counsel.

## **EXPERTS**

The financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this prospectus by reference to the Annual Report on Form 10-K for the year ended December 31, 2015 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.



## WHERE YOU CAN FIND MORE INFORMATION

We file reports, proxy statements and other information with the SEC. You can read and copy any materials we file with the SEC at the SEC's public reference room at 100 F Street, NE, Washington, D.C. 20549. You can obtain information about the operation of the SEC's public reference room by calling the SEC at 1-800-SEC-0330. The SEC also maintains a Web site that contains information we file electronically with the SEC, which you can access over the Internet at <http://www.sec.gov>. You can obtain information about us at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

This prospectus is part of a registration statement we have filed with the SEC relating to the securities we may offer. As permitted by SEC rules, this prospectus does not contain all of the information we have included in the registration statement and the accompanying exhibits and schedules we file with the SEC. You may refer to the registration statement, the exhibits and the schedules for more information about us and our securities. The registration statement, exhibits and schedules are available at the SEC's public reference room or through its Web site.

We are incorporating by reference information we file with the SEC, which means that we are disclosing important information to you by referring you to those documents. The information we incorporate by reference is an important part of this prospectus, and later information that we file with the SEC automatically will update and supersede this information. We incorporate by reference the documents listed below and any future filings we make with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 until the termination of the offering:

- our Annual Report on Form 10-K for the year ended December 31, 2015;
- our Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2016 and June 30, 2016;
- our Current Reports on Form 8-K filed with the SEC on February 26, 2016, May 18, 2016, May 19, 2016 and August 23, 2016; and
- the description of our common stock contained in our Registration Statement on Form 8-A filed with the SEC on April 11, 2012, as that description may be updated from time to time.

You may request a copy of these filings, other than an exhibit to these filings unless we have specifically incorporated that exhibit by reference into the filing, at no cost, by writing or telephoning us at the following address:

Forum Energy Technologies, Inc.  
920 Memorial City Way, Suite 1000  
Houston, Texas 77024  
Attention: Investor Relations  
Telephone: (281) 949-2500

**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth the estimated expenses payable by Forum Energy Technologies, Inc., a Delaware corporation (the “Company”), in connection with the offering described in this Registration Statement.

Registration fee	*
Printing expenses	†
Accounting fees and expenses	†
Legal fees and expenses	†
Trustee fees and expenses	†
Rating agency fees	†
Miscellaneous	†
Total	†

\* Applicable SEC registration fees have been deferred in accordance with Rules 456(b) and 457(r) of the Securities Act of 1933, as amended (the “Securities Act”), and are not estimable at this time.

† Estimated expenses are not presently known. The foregoing sets forth the general categories of expenses (other than underwriting discounts and commissions) that the Company anticipates it will incur in connection with the offering of securities under this Registration Statement. An estimate of the aggregate expenses in connection with the issuance and distribution of the securities being offered will be included in the applicable prospectus supplement.

**Item 15. Indemnification of Directors and Officers.****Delaware General Corporation Law**

Section 145(a) of the Delaware General Corporation Law (“DGCL”) provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with the action, suit or proceeding if he acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person’s conduct was unlawful.

Section 145(b) of the DGCL provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys’ fees) actually and reasonably incurred by the person in connection with the defense or settlement of the action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which the person shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or the court in which the action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for the expenses which the Delaware Court of Chancery or such other court shall deem proper.

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Section 145(c) of the DGCL provides that to the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 145(a) and (b), or in defense of any claim, issue or matter therein, the person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection therewith.

Section 145(d) of the DGCL provides that any indemnification under Section 145(a) and (b) (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in Section 145(a) and (b). The determination shall be made, with respect to a person who is a director or officer at the time of such determination, (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (4) by the stockholders.

Section 145(e) of the DGCL provides that expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that the person is not entitled to be indemnified by the corporation as authorized in Section 145. The expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon those terms and conditions, if any, as the corporation deems appropriate.

Section 145(f) of the DGCL provides that the indemnification and advancement of expenses provided by, or granted pursuant to, Section 145 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 145(g) of the DGCL provides that a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person and incurred by the person in any such capacity, or arising out of the person's status as such, whether or not the corporation would have the power to indemnify the person against such liability under Section 145.

Section 145(k) of the DGCL provides that the indemnification and advancement of expenses provided by, or granted pursuant to, Section 145 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

### **Certificate of Incorporation and Bylaws**

The Company's amended and restated certificate of incorporation provides that a director will not be liable to the Company or its stockholders for monetary damages to the fullest extent permitted by the DGCL. In addition, if the DGCL is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Company, in addition to the limitation on personal liability provided for in the certificate of incorporation, will be limited to the fullest extent permitted by the amended DGCL. The Company's amended and restated certificate of incorporation also contains indemnification rights for the directors and officers. Specifically, the amended and restated certificate of incorporation provides that the Company shall indemnify its officers and directors to the fullest extent authorized by the DGCL.

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The Company's bylaws will provide that the Company will indemnify, and advance expenses to, any officer or director to the fullest extent authorized by the DGCL.

### **Certain Other Arrangements**

The Company has obtained directors' and officers' insurance to cover its directors, officers and some employees for certain liabilities.

Each of the Company's current and former directors and officers are indemnified pursuant to an indemnification agreement and to the fullest extent possible under law against all losses pertaining to certain actions taken by them, or failures to act. Pursuant to these agreements, if an officer or director makes a claim of indemnification to the Company, either a majority of the independent directors or independent legal counsel selected by the independent directors must review the relevant facts and make a determination whether the officer or director has met the standards of conduct under Delaware law that would permit (under Delaware law) and require (under the indemnification agreement) the Company to indemnify the officer or director.

### **Item 16. Exhibits.**

See Index to Exhibits.

### **Item 17. Undertakings.**

(a) The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
  - (i) To include any prospectus required by section 10(a)(3) of the Securities Act;
  - (ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) of the Securities Act if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and
  - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

*provided, however,* that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934, that are incorporated by reference in the Registration Statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the Registration Statement.
- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for the purpose of determining liability under the Securities Act to any purchaser:
  - (A) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the Registration Statement as of the date the filed prospectus was deemed part of and included in the Registration Statement; and
  - (B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act shall be deemed to be part of and included in the Registration Statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the Registration Statement relating to the securities in the Registration Statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the Registration Statement or made in a document incorporated or deemed incorporated by reference into the Registration Statement or prospectus that is part of the Registration Statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the Registration Statement or prospectus that was part of the Registration Statement or made in any such document immediately prior to such effective date.
- (5) That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities: The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to the Registration Statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
  - (i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;
  - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;
  - (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and
  - (iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.
- (b) The undersigned Registrant hereby further undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions,

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or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

- (d) The undersigned Registrant hereby undertakes to file an application for the purpose of determining the eligibility of the Subordinated Trustee to act under subsection (a) of section 310 of the Trust Indenture Act of 1939 (the "Act") in accordance with the rules and regulations prescribed by the Commission under section 305(b)(2) of the Act.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, each registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on August 23, 2016.

FORUM ENERGY TECHNOLOGIES, INC.

By: /s/ C. Christopher Gaut  
C. Christopher Gaut  
Chief Executive Officer and  
Chairman of the Board

FET HOLDINGS, LLC  
FORUM ENERGY SERVICES, INC.  
FORUM GLOBAL HOLDINGS, LLC  
FORUM GLOBAL TUBING LLC  
FORUM INTERNATIONAL HOLDINGS, INC.  
FORUM US, INC.  
TGH (US), INC.

By: /s/ James W. Harris  
James W. Harris  
President

FORUM GLOBAL TUBING LP  
By: FORUM US, INC., its general partner

By: /s/ James W. Harris  
James W. Harris  
President

GLOBAL FLOW TECHNOLOGIES, INC.  
Z EXPLORATIONS, INC.  
Z RESOURCES, INC.  
ZY-TECH GLOBAL INDUSTRIES, INC.

By: /s/ Michael Donoghue  
Michael Donoghue  
President

**POWER OF ATTORNEY**

Each person whose signature appears below appoints C. Christopher Gaut, James W. Harris and James L. McCulloch, and each of them severally, each of whom may act without the joinder of the others, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this Registration Statement and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated and on August 23, 2016.

**FORUM ENERGY TECHNOLOGIES, INC.**

<u>/s/ C. Christopher Gaut</u> C. Christopher Gaut	Chief Executive Officer and Chairman of the Board (Principal Executive Officer)
<u>/s/ James W. Harris</u> James W. Harris	Executive Vice President and Chief Financial Officer (Principal Financial Officer)
<u>/s/ Tylar K. Schmitt</u> Tylar K. Schmitt	Vice President and Chief Accounting Officer (Principal Accounting Officer)
<u>/s/ Evelyn M. Angelle</u> Evelyn M. Angelle	Director
<u>/s/ David C. Baldwin</u> David C. Baldwin	Director
<u>/s/ John A. Carrig</u> John A. Carrig	Director
<u>/s/ Michael McShane</u> Michael McShane	Director
<u>/s/ Terence O'Toole</u> Terence O'Toole	Director
<u>/s/ Franklin Myers</u> Franklin Myers	Director
<u>/s/ Louis A. Raspino</u> Louis A. Raspino	Director
<u>/s/ John Schmitz</u> John Schmitz	Director
<u>/s/ Andrew L. Waite</u> Andrew L. Waite	Director



**FET HOLDINGS, LLC, FORUM GLOBAL HOLDINGS, LLC AND FORUM GLOBAL TUBING LLC**

\_\_\_\_\_  
/s/ James W. Harris  
James W. Harris

President and Manager (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)

**FORUM ENERGY SERVICES, INC.**

\_\_\_\_\_  
/s/ James W. Harris  
James W. Harris

President and Director (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)

**FORUM US, INC., FORUM INTERNATIONAL HOLDINGS, INC. AND TGH (US), INC.**

\_\_\_\_\_  
/s/ James W. Harris  
James W. Harris

President and Director (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)

\_\_\_\_\_  
/s/ Prady Iyyanki  
Prady Iyyanki

Director

**FORUM US, INC.  
on behalf of itself and as general partner of  
FORUM GLOBAL TUBING LP**

\_\_\_\_\_  
/s/ James W. Harris  
James W. Harris

President and Director (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)

\_\_\_\_\_  
/s/ Prady Iyyanki  
Prady Iyyanki

Director

**GLOBAL FLOW TECHNOLOGIES, INC.**

\_\_\_\_\_  
/s/ Michael Donoghue  
Michael Donoghue

President (Principal Executive Officer)

\_\_\_\_\_  
/s/ Harry Hernandez  
Harry Hernandez

Secretary (Principal Financial Officer and Principal Accounting Officer)

\_\_\_\_\_  
/s/ Keith Barnard  
Keith Barnard

Director

\_\_\_\_\_  
/s/ Jerry H. Blurton  
Jerry H. Blurton

Director

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**Z EXPLORATIONS, INC., Z RESOURCES, INC. AND ZY-TECH GLOBAL INDUSTRIES, INC.**

/s/ Michael Donoghue  
Michael Donoghue

President and Director (Principal Executive  
Officer)

/s/ Harry Hernandez  
Harry Hernandez

Secretary and Director (Principal Financial  
Officer and Principal Accounting Officer)

**INDEX TO EXHIBITS†**

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
*4.1	Third Amended and Restated Certificate of Incorporation of Forum Energy Technologies, Inc. (the “Company”) dated March 28, 2011 (incorporated herein by reference to Exhibit 3.2 to Amendment No. 5 to the Company’s Registration Statement on Form S-1 File No. 333-180676, filed on August 31, 2011 (the “Registration Statement”), filed on March 29, 2012).
*4.2	Second Amended and Restated Bylaws of the Company dated April 17, 2012 (incorporated herein by reference to Exhibit 3.1 to the Company’s Current Report on Form 8-K, filed on April 17, 2012).
4.3	Certificate of Formation of FET Holdings, LLC dated December 16, 2011.
4.4	Limited Liability Company Agreement of FET Holdings, LLC dated December 16, 2011.
4.5	Certificate of Incorporation of Forum Energy Services, Inc. dated December 2, 2011.
4.6	Bylaws of Forum Energy Services, Inc.
4.7	Certificate of Formation of Forum Global Holdings, LLC dated August 8, 2014.
4.8	Limited Liability Company Agreement of Forum Global Holdings, LLC dated August 8, 2014.
4.9	Certificate of Formation of Forum Global Tubing LLC dated May 8, 2007.
4.10	Amended and Restated Limited Liability Company Agreement of Forum Global Tubing LLC dated July 1, 2013.
4.11	Certificate of Limited Partnership of Forum Global Tubing LP dated April 20, 2007.
4.12	Amended and Restated Agreement of Limited Partnership of Forum Global Tubing LP dated July 1, 2013.
4.13	Certificate of Incorporation of Forum International Holdings, Inc. dated March 21, 2006.
4.14	Bylaws of Forum International Holdings, Inc. dated March 21, 2006.
4.15	Certificate of Incorporation of Forum US, Inc. dated November 14, 2008.
4.16	Bylaws of Forum US, Inc. (f/k/a Forum Oilfield Technologies US, Inc.).
4.17	Certificate of Incorporation of Global Flow Technologies, Inc. dated June 28, 2005.
4.18	Bylaws of Global Flow Technologies, Inc. dated June 29, 2005.
4.19	Certificate of Incorporation of TGH (US), Inc. dated January 12, 2007.
4.20	Bylaws of TGH (US), Inc. (f/k/a PSSI Holdings Inc.) dated January 12, 2007.
4.21	Certificate of Incorporation of Z Explorations, Inc. dated March 18, 1997.
4.22	Bylaws of Z Explorations, Inc.
4.23	Certificate of Incorporation of Z Resources, Inc. dated March 18, 1997.
4.24	Bylaws of Z Resources, Inc. (f/k/a PON Resources, Inc.).
4.25	Certificate of Incorporation of Zy-Tech Global Industries, Inc. dated March 18, 1997.
4.26	Bylaws of Zy-Tech Global Industries, Inc. (f/k/a Zidell Valve Corporation).
*4.27	Form of the Company’s Common Stock Certificate (incorporated herein by reference to Exhibit 4.1 to Amendment No. 3 to the Registration Statement, filed on December 29, 2011).

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<u>Exhibit No.</u>	<u>Description of Exhibit</u>
*4.28	Form of Indenture between the Company and the trustee thereunder (the “Senior Trustee”), relating to senior debt securities (incorporated herein by reference to Exhibit 4.4 to the Company’s Registration Statement on Form S-3 File No. 333-191294, filed on September 20, 2013 (the “Registration Statement on Form S-3”).
*4.29	Form of Indenture between the Company and the trustee thereunder (the “Subordinated Trustee”), relating to subordinated debt securities (incorporated herein by reference to Exhibit 4.5 to the Registration Statement on Form S-3).
*4.30	Indenture, dated October 2, 2013, among Forum Energy Technologies, Inc., the guarantors named therein and Wells Fargo Bank, National Association, as Trustee (the “Trustee”), (the “Existing Indenture”) (incorporated herein by reference to Exhibit 4.1 to the Company’s Current Report on Form 8-K, filed on October 4, 2013).
*4.31	Form of 6.250% Senior Note due 2021 (included in Exhibit 4.30).
5.1	Opinion of Baker Botts L.L.P. as to the legality of the securities.
12.1	Statement of computation of ratio of earnings to fixed charges.
23.1	Consent of PricewaterhouseCoopers LLP.
23.2	Consent of Baker Botts L.L.P. (included in Exhibit 5.1).
24.1	Powers of Attorney (included on the signature page herein).
**25.1	Statement of Eligibility under the Trust Indenture Act of 1939, as amended, on Form T-1 of the Senior Trustee (to be filed prior to any issuance of senior debt securities).
**25.2	Statement of Eligibility under the Trust Indenture Act of 1939, as amended, on Form T-1 of the Subordinated Trustee (to be filed prior to any issuance of subordinated debt securities).
25.3	Statement of Eligibility under the Trust Indenture Act of 1939, as amended, on Form T-1 of the Trustee under the Existing Indenture.
†	The Company will file as an exhibit to a Current Report on Form 8-K (i) any underwriting, remarketing or agency agreement relating to securities offered hereby, (ii) the instruments setting forth the terms of any debt securities, preferred stock or warrants, (iii) any additional required opinions of counsel with respect to legality of the securities offered hereby and (iv) any required opinion of counsel to the Company as to certain tax matters relative to securities offered hereby.
*	Incorporated by reference as indicated.
**	To be filed, if necessary, on Form 305B2 in accordance with the requirements of Section 305(b)(2) of the Trust Indenture Act of 1939, as amended.

*State of Delaware*  
*Secretary of State*  
*Division of Corporations*  
*Delivered 01:26 PM 12/16/2011*  
*FILED 01:15 PM 12/16/2011*  
*SRV 111302612 - 5081660 FILE*

**CERTIFICATE OF FORMATION**  
**OF**  
**FET HOLDINGS, LLC**

This Certificate of Formation of FET Holdings, LLC (the "LLC") dated this 16<sup>th</sup> day of December, 2011 is being duly executed and filed by Mark Hughes, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C '§18-101, et seq.)

FIRST. The name of the limited liability company formed hereby is:

FET Holdings, LLC

SECOND. The address of the registered office of the LLC in the State of Delaware is:

National Registered Agents, Inc.  
160 Greentree Drive, Suite 101  
Dover, DE 19904

The name and address of its registered agent for service of process in the State of Delaware is:

National Registered Agents, Inc.  
160 Greentree Drive, Suite 101  
Dover, DE 19904

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the date first written above.

/s/ Mark Hughes

---

Name: Mark Hughes

Authorized Person

**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
FET HOLDINGS, LLC**

*A Delaware Limited Liability Company*

This LIMITED LIABILITY COMPANY AGREEMENT OF FET HOLDINGS, LLC (this "**Agreement**"), dated as of December 16, 2011, is adopted, executed and agreed to by the Sole Member (as defined below).

**1. Formation.** Effective with the filing of the Certificate (as defined below) on December 16, 2011, FET Holdings, LLC (the "**Company**") was formed as a Delaware limited liability company under and pursuant to the Delaware Limited Liability Company Act, as may be amended from time to time (the "**DLLCA**").

**2. Term.** The Company commenced on the effective date of the filing of the Certificate of Formation (the "**Certificate**") pursuant to the DLLCA and shall have a perpetual existence, unless and until it is dissolved in accordance with Section 9 below.

**3. Registered Office; Registered Agent.** The registered office and registered agent of the Company in the State of Delaware shall be as specified in the Certificate or as determined by the Sole Member from time to time in the manner provided by applicable law.

**4. Purposes.** The purposes of the Company are to carry on any lawful business, purpose or activity for which limited liability companies may be formed under the DLLCA.

**5. Sole Member.** Forum Energy Technologies, Inc., a corporation incorporated under the laws of the State of Delaware, shall be the sole member of the Company (the "**Sole Member**").

**6. Contributions.** Without creating any rights in favor of any third party, the Sole Member may, from time to time, make contributions of cash or property to the capital of the Company, but shall have no obligation to do so.

**7. Distributions.** The Sole Member shall be entitled to (a) receive all distributions (including, without limitation, liquidating distributions) made by the Company and (b) enjoy all other rights, benefits and interests in the Company.

**8. Management.**

(a) **Managers.** The powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the board of managers (the "**Board of Managers**"). The members of the Board of Managers shall each constitute a 'manager', as such term is defined in Section 18-101(10) of the DLLCA (each a "**Manager**"). The Sole Member shall be entitled to remove and appoint Managers to the Board of Managers in its sole discretion. At any time that there is only one Manager on the Board of Managers, (i) any and all actions

provided for herein to be taken or approved by the Board of Managers shall be taken or approved by the sole Manager and (ii) the taking of any lawful action by the sole Manager on behalf of the Company, including the execution and/or delivery of any instrument, certificate, filing or document by the Manager on behalf of the Company, or the adoption by the Manager of authorizing resolutions with respect to any matter, shall constitute and evidence the due authorization of such action or matter on behalf of the Company.

(b) *Officers.*

(i) The Sole Member may appoint one or more officers of the Company (each, an “**Officer**”). Any two or more offices may be held by the same person. Each such Officer shall have delegated to him or her the authority and power to execute and deliver on behalf of the Company (and to cause the Company to perform) any and all such contracts, certificates, agreements, instruments and other documents, and to take any such action, as the Sole Member deems necessary or appropriate, all as may be set forth in a written delegation of authority executed by the Sole Member. The Officers shall serve at the pleasure of the Sole Member, and the Sole Member may remove any person as an Officer, appoint additional persons as Officers and add or remove from the delegation of authority of an Officer as the Sole Member deems necessary or desirable.

(ii) Any Officer may resign at any time by giving written notice of such resignation to the Sole Member. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Sole Member and the acceptance of such resignation shall not be necessary to make it effective. Any Person dealing with the Company may conclusively presume that an Officer specified in such a written delegation of authority who executes a contract, certificate, agreement, instrument or other document on behalf of the Company has the full power and authority to do so and each such document shall, for all purposes, be duly authorized, executed and delivered by the Company upon execution and delivery by such Officer. The Officers, to the extent of their powers set forth in this Agreement or otherwise vested in them by action of the Sole Member not inconsistent with this Agreement, are agents of the Company for the purpose of conducting the business and affairs of the Company, and the actions of any Officer taken in accordance with such powers shall bind the Company and any third party dealing with such Officer shall be entitled to rely conclusively (without making inquiry of any kind) on any actions so taken as being properly authorized by the Company.

**9. Dissolution.** The Company shall dissolve and its affairs shall be wound up at such time, if any, as the Sole Member may elect. To the maximum extent permitted by law, no other event (including, without limitation, an event described in Section 18-801 of the DLLCA) will cause the Company to dissolve.

**10. Liability.**

(a) The Sole Member, Managers and Officers shall not have any liability for the obligations or liabilities of the Company except to the extent provided herein or by applicable law.

(b) The Company shall indemnify and hold harmless the Sole Member, the Managers and the Officers and their respective partners, shareholders, officers, directors, managers, employees, agents and representatives, and the partners, shareholders, officers, directors, managers, employees, agents and representatives of such persons to the fullest extent permitted by applicable law.

**11. Amendment.** This Agreement may be amended from time to time only by a written consent executed by the Sole Member.

**12. Governing Law. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE (EXCLUDING ITS CONFLICT-OF-LAWS RULES).**

[The remainder of this page is intentionally left blank.]



IN WITNESS WHEREOF, the undersigned, being the Sole Member of the Company, has caused this Agreement to be duly executed as of the date first written above.

**FORUM ENERGY TECHNOLOGIES, INC.,**  
as Sole Member

By: /s/ James W. Harris  
Name: James W. Harris  
Title: Senior Vice President and  
Chief Financial Officer

SIGNATURE PAGE TO  
LIMITED LIABILITY COMPANY AGREEMENT OF  
FET HOLDINGS, LLC

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 01:52 PM 12/02/2011  
FILED 01:37 PM 12/02/2011  
SRV 111250510 - 5073886 FILE

**CERTIFICATE OF INCORPORATION**  
**OF**  
**FORUM ENERGY SERVICES, INC.**

ARTICLE I

The name of the corporation is Forum Energy Services, Inc.

ARTICLE II

The address of the initial registered office of the corporation in the State of Delaware is National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, DE 19904. The name of the initial registered agent of the corporation at such address is National Registered Agents, Inc.

ARTICLE III

The purpose for which the corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

The aggregate number of shares which the corporation shall have the authority to issue is 1,000 shares of common stock of the par value of \$.01 per share.

ARTICLE V

The Board of Directors of the corporation is expressly authorized and empowered to make, alter or repeal Bylaws, subject to the power of the stockholders to alter or repeal the Bylaws made by the Board of Directors.

ARTICLE VI

(a) Elimination of Certain Liability of Directors. To the fullest extent permitted by the Delaware General Corporation Law as the same exists or may hereafter be amended, a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of duty as a director. Without limiting the foregoing in any respect, a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended. Any repeal or modification of this provision shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

(b) Indemnification and Insurance.

(i) Right to Indemnification. (A) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, is or was a director or officer of the corporation, or serves at the request of the corporation, in any capacity, any corporation, partnership or other entity in which the corporation has a partnership or other interest, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators, and (B) the corporation shall indemnify and hold harmless in such manner any person designated by the Board of Directors, or any committee thereof, as a person subject to this indemnification provision, and who was or is made a party or is threatened to be made a party to a proceeding by reason of the fact that he, she or a person of whom he or she is the legal representative, is or was serving at the request of the Board of Directors of the corporation as a director, officer, employee or agent of another corporation or a partnership, joint venture, trust or other enterprise whether such request is made before or after the acts taken or allegedly taken or events occurring or allegedly occurring which give rise to such proceeding; *provided, however,* that except as provided in subsection (b)(ii) of this Section, the corporation shall indemnify any such person seeking indemnification pursuant to this subsection in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred herein shall be a contract right based upon an offer from the corporation which shall be deemed to have been made to a person subject to subsection (b)(i)(A) on the date hereof and to a person subject to subsection (b)(i)(B) on the date designated by the Board of Directors, shall be deemed to be accepted by such person's service or continued service as a director or officer of the corporation for any period after the offer is made and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; *provided, however,* that if the Delaware General Corporation Law requires, the payment of such expenses incurred

by a director or officer in his or her capacity as the director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The corporation may, by action of its Board of Directors, provide indemnification to employees or agents of the corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(ii) Right of Claimant to Bring Suit. If a claim under Section (b)(i) of this Article is not paid in full by the corporation within thirty days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(iii) Nonexclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section shall not be exclusive of any right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(iv) Insurance. The corporation may maintain insurance, at its expense, to protect itself and any director officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

(v) Severability. If any subsection of this Section (b) shall be deemed to be invalid or ineffective in any proceedings, the remaining subsections hereof shall not be affected and shall remain in full force and effect.

ARTICLE VII

The name and mailing address of the person who is to serve as director until the first annual meeting of stockholders or until his successor is duly elected and qualified is as follows:

<u>Name</u>	<u>Mailing Address</u>
James W. Harris	920 Memorial City Way, Suite 800 Houston, Texas 77024

ARTICLE VIII

Whenever a compromise or arrangement is proposed between the corporation and its creditors or any class of them and/or between the corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the corporation or any of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or stockholders or class of stockholders of the corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the corporation, as the case may be, and also on the corporation.

ARTICLE IX

The name of the incorporator is Mark Hughes and his mailing address is Hughes Arrell Kinchen, LLP, 2211 Norfolk, Suite 1110, Houston, Texas 77098.

THE UNDERSIGNED, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, does make this Certificate, hereby declaring and certifying that this is his act and deed and that the facts herein stated are true, and accordingly has hereunto set his hand as of the 2nd day of December, 2011.

/s/ Mark Hughes

Mark Hughes

**BYLAWS  
OF  
FORUM ENERGY SERVICES, INC.**

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**BYLAWS  
OF  
FORUM ENERGY SERVICES, INC.**

ARTICLE I  
OFFICES

Section 1. *Registered Office.* The registered office of Forum Energy Services, Inc., a Delaware corporation (hereinafter called the "Corporation"), in the State of Delaware shall be at National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, DE 19904 and the registered agent in charge thereof shall be National Registered Agents, Inc.

Section 2. *Other Offices.* The Corporation may also have an office or offices, and keep the books and records of the Corporation, except as may otherwise be required by law, at such other place or places, either within or without the State of Delaware, as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II  
MEETINGS OF STOCKHOLDERS

Section 1. *Place of Meeting.* All meetings of the stockholders of the Corporation shall be held at the office of the Corporation or at such other places, within or without the State of Delaware, or, if so determined by the Board in its sole discretion, at no place (but rather by means of remote communication) as may from time to time be fixed by the Board of Directors, the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President).

Section 2. *Annual Meetings.* Annual meetings of the stockholders of the Corporation for the election of directors and for the transaction of such other business as may properly come before such meetings shall be held during each calendar year on a date and at such hour as may be fixed by the Board of Directors, the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President). Failure to designate a time for the annual meeting or to hold the annual meeting at the designated time shall not work a dissolution of the Corporation.

In order for business to be properly brought before the meeting by a stockholder, the business must be legally proper and written notice thereof must have been filed with the Secretary of the Corporation not less than 60 nor more than 120 days prior to the meeting. Each such notice shall set forth: (a) the name and address of the stockholder who intends to make the proposal as the same appears in the Corporation's records; (b) the class and number of shares of stock of the Corporation that are beneficially owned, directly or indirectly, by such stockholder; and (c) a clear and concise statement of the proposal and the stockholder's reasons for supporting it.

The filing of a stockholder notice as required above shall not, in and of itself, constitute the making of the proposal described therein.

If the chairman of the meeting determines that any proposed business has not been properly brought before the meeting, he shall declare such business out of order; and such business shall not be conducted at the meeting.

Section 3. *Special Meetings.* Except as otherwise required by law and subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, special meetings of the stockholders for any purpose or purposes may be called only by a majority of the entire Board of Directors. Only such business as is specified in the notice of any special meeting of the stockholders shall come before such meeting.

Section 4. *Notice of Meetings.* Except as otherwise provided by law, notice of each meeting of the stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder of record entitled to notice of the meeting. If mailed, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Each such notice shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting and the purpose or purposes for which the meeting is called. Notice of any meeting of stockholders shall not be required to be given to any stockholder who shall attend such meeting in person or by proxy without protesting, prior to or at the commencement of the meeting, the lack of proper notice to such stockholder, or who shall waive notice thereof as provided in Article X of these Bylaws. Notice of adjournment of a meeting of stockholders need not be given if the time and place to which it is adjourned are announced at such meeting, unless the adjournment is for more than 30 days or, after adjournment, a new record date is fixed for the adjourned meeting. Notice to stockholders may be given by a form of electronic transmission if consented to by the stockholders to whom the notice is given.

Section 5. *Quorum.* Except as otherwise provided by law or by the Certificate of Incorporation of the Corporation, the holders of a majority of the votes entitled to be cast by the stockholders entitled to vote, which if any vote is to be taken by classes shall mean the holders of a majority of the votes entitled to be cast by the stockholders of each such class, present in person or represented by proxy, shall constitute a quorum for the transaction of business at any meeting of the stockholders.

Section 6. *Adjournments.* Any meeting of stockholders, annual or special, maybe adjourned solely by the chair of the meeting from time to time to reconvene at the same or some other time, date and place. The stockholders present at a meeting shall not have authority to adjourn the meeting. Notice need not be given of any such adjourned meeting if the time, date and place, if any, thereof and the means of remote communications, if any, by which the stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at

the meeting at which the adjournment is taken. If the time, date and place of the adjourned meeting are not announced at the meeting at which the adjournment is taken, if the adjournment is for more than 30 days or if after the adjournment a new record date is fixed for the adjourned meeting, then the Secretary shall give notice of the adjourned meeting as provided in Article II, Section 4, not less than ten (10) days prior to the date of the adjourned meeting.

Section 7. *Order of Business.* At each meeting of the stockholders, the Chairman of the Board, or, in the absence of the Chairman of the Board, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), shall act as chairman. The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof, and the opening and closing of the voting polls. The chairman of the meeting shall announce at each such meeting the date and time of the opening and the closing of the voting polls for each matter upon which the stockholders will vote at such meeting.

Section 8. *List of Stockholders.* It shall be the duty of the Secretary or other officer of the Corporation who has charge of the stock ledger to prepare and make, at least 10 days before each meeting of the stockholders, a complete list of the stockholders entitled to vote thereat, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in such stockholder's name. Such list shall be produced and kept available at the times and places required by law. If the meeting is to be held at a place, such list shall be produced and kept open at the time and place of the meeting during the whole time thereof, and shall be subject to the inspection of any stockholder who may be present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Section 9. *Voting.* Except as otherwise provided by law or by the Certificate of Incorporation of the Corporation, each stockholder of record of any class or series of stock having a preference over the Common Stock of the Corporation as to dividends or upon liquidation shall be entitled at each meeting of stockholders to such number of votes for each share of such stock as may be fixed in the Certificate of Incorporation or in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such stock, and each stockholder of record of Common Stock shall be entitled at each meeting of stockholders to one vote for each share of such stock, in each case, registered in such stockholder's name on the books of the Corporation:

(a) on the date fixed pursuant to Section 6 of Article VII of these Bylaws as the record date for the determination of stockholders entitled to notice of and to vote at such meeting; or

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

Each stockholder entitled to vote at any meeting of stockholders may authorize not in excess of three persons to act for such stockholder by a proxy signed by such stockholder or such stockholder's attorney-in-fact. Any such proxy shall be delivered to the secretary of such meeting at or prior to the time designated for holding such meeting but, in any event, not later than the time designated in the order of business for so delivering such proxies. No such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

At each meeting of the stockholders, all corporate actions to be taken by vote of the stockholders (except as otherwise required by law and except as otherwise provided in the Certificate of Incorporation) shall be authorized by a majority of the votes cast by the stockholders entitled to vote thereon, present in person or represented by proxy. Where a separate vote by a class or classes is required, the affirmative vote of the majority of shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class.

Unless required by law or determined by the chairman of the meeting to be advisable, the vote on any matter, including the election of directors, need not be by written ballot. In the case of a vote by written ballot, each ballot shall be signed by the stockholder voting, or by such stockholder's proxy, and shall state the number of shares voted.

Section 10. *Inspectors of Election.* Either the Board of Directors or, in the absence of an appointment of inspectors by the Board, the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) shall, in advance of each meeting of the stockholders, appoint one or more inspectors to act at such meeting and make a written report thereof. In connection with any such appointment, one or more persons may, in the discretion of the body or person making such appointment, be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at any meeting of stockholders, the chairman of such meeting shall appoint one or more inspectors to act at such meeting. Each such inspector shall perform such duties as are required by law and as shall be specified by the Board, the Chairman of the Board, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or the chairman of the meeting. Each such inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability. Inspectors need not be stockholders. No director or nominee for the office of director shall be appointed such an inspector.

Section 11. *Postponement and Cancellation of Meeting.* Any previously scheduled annual or special meeting of the stockholders maybe postponed, and any previously scheduled annual or special meeting of the stockholders called by the Board may be canceled, by resolution of the Board upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 12. *Action Without Meeting.* Any action required or permitted to be taken at any meeting of the stockholders may be taken without a meeting if a consent thereto in writing or by electronic transmission is signed by the holders of the outstanding stock not having less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with applicable law.

ARTICLE III  
BOARD OF DIRECTORS

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

Section 2. *Number, Qualification and Election.* The number of directors of the Corporation shall be fixed from time to time by resolution adopted by vote of a majority of the entire Board of Directors or the stockholders, provided that the number so fixed shall not be less than one nor more than fifteen.

The directors, other than those who may be elected by the holders of shares of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation pursuant to the terms of any resolution or resolutions providing for the issuance of such stock adopted by the Board, shall hold office until his successor is elected and qualified or until his earlier resignation or removal.

Each director shall be at least 21 years of age. Directors need not be stockholders of the Corporation.

Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, at each annual meeting of the stockholders, all directors of the Corporation shall be elected.

In any election of directors, the persons receiving a plurality of the votes cast, up to the number of directors to be elected in such election, shall be deemed elected.

Section 3. *Notification of Nominations.* Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, nominations for the election of directors may be made by the Board of Directors or by any stockholder entitled to vote for the election of directors. Any stockholder entitled to vote for the election of directors at a meeting may nominate persons for election as directors only if written notice of such stockholder's intent to make such nomination is given, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Corporation not later than (i) with respect to an election to be held at an annual meeting of stockholders, 90 days in advance of such meeting, and (ii) with respect to an election to be held at a special meeting of stockholders for the election of directors, the close of business on the seventh day following the date on which notice of such meeting is first given to stockholders. Each such notice shall set forth: (a) the name and address of the stockholder who intends to make the nomination of the person or persons to be

nominated; (b) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (c) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (d) such other information regarding each nominee proposed by such stockholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission had each nominee been nominated, or intended to be nominated, by the Board of Directors; and (e) the consent of each nominee to serve as a director of the Corporation if so elected. The chairman of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure.

Section 4. *Quorum and Manner of Acting.* Except as otherwise provided by law, the Certificate of Incorporation of the Corporation or these Bylaws, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, and, except as so provided, the vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board. In the absence of a quorum, a majority of the directors present may adjourn the meeting to another time and place. At any adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting as originally called may be transacted.

Section 5. *Place of Meeting.* The Board of Directors may hold its meetings at such place or places within or without the State of Delaware as the Board may from time to time determine or as shall be specified or fixed in the respective notices or waivers of notice thereof.

Section 6. *Regular Meetings.* Regular meetings of the Board of Directors shall be held at such times and places as the Board shall from time to time by resolution determine. If any day fixed for a regular meeting shall be a legal holiday under the laws of the place where the meeting is to be held, the meeting that would otherwise be held on that day shall be held at the same hour on the next succeeding business day.

Section 7. *Special Meetings.* Special meetings of the Board of Directors shall be held whenever called by the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or by a majority of the directors.

Section 8. *Notice of Meetings.* Notice of regular meetings of the Board of Directors or of any adjourned meeting thereof need not be given. Notice of each special meeting of the Board shall be mailed or transmitted by delivery service to each director, addressed to such director at such director's residence or usual place of business, at least two days before the day on which the meeting is to be held or shall be sent to such director at such place by telegraph or facsimile telecommunication or be given personally or by telephone or by other means of electronic transmission, not later than the day before the meeting is to be held, but notice need not be given to any director who shall, either before or after the meeting, submit a signed waiver of such notice or who shall attend such meeting without protesting, prior to or at its commencement, the lack of notice to such director. Every such notice shall state the time and place but need not state the purpose of the meeting. Notice to directors may be given by telegram, telecopier, telephone, or other means of electronic transmission.

Section 9. *Rules and Regulations.* The Board of Directors may adopt such rules and regulations not inconsistent with the provisions of law, the Certificate of Incorporation of the Corporation or these Bylaws for the conduct of its meetings and management of the affairs of the Corporation as the Board may deem proper.

Section 10. *Participation in Meeting by Means of Communication Equipment.* Any one or more members of the Board of Directors or any committee thereof may participate in any meeting of the Board or of any such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 11. *Action Without Meeting.* Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if all of the members of the Board or of any such committee consent thereto in writing or by electronic transmission, as the case may be, and the writing or electronic transmission is filed with the minutes of proceedings of the Board or of such committee.

Section 12. *Resignations.* Any director of the Corporation may at any time resign by giving written notice to the Board of Directors, the Chairman of the Board, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein or, if the time be not specified, upon receipt thereof; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 13. *Removal of Directors.* Any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided, that if a director was elected by the holders of a particular class or series of stock, only the holders of that class or series shall be entitled to remove such director.

Section 14. *Vacancies.* Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, any vacancies on the Board of Directors and any newly created directorship resulting from an increase in the authorized number of directors, may be filled by election at an annual or special meeting of stockholders called for that purpose or by the affirmative vote of a majority of the remaining directors, though less than a quorum of the entire Board, and the directors so chosen shall hold office until the next annual meeting of stockholders and until their successors are duly elected and shall qualify, unless sooner displaced.

Section 15. *Compensation.* Each director who shall not at the time also be a salaried officer or employee of the Corporation or any of its subsidiaries (hereinafter referred to as an "outside director"), in consideration of such person serving as a director, shall be entitled to receive from the Corporation such amount per annum and such fees for attendance at meetings of the Board of Directors or of committees of the Board, or both, as the Board shall from time to time determine.



In addition, each director, whether or not an outside director, shall be entitled to receive from the Corporation reimbursement for the reasonable expenses incurred by such person in connection with the performance of such person's duties as a director. Nothing contained in this Section 15 shall preclude any director from serving the Corporation or any of its subsidiaries in any other capacity and receiving proper compensation therefor.

Section 16. *Advisory Directors.* The Board of Directors may appoint one or more advisory directors as it shall from time to time determine. Each advisory director appointed shall hold office at the pleasure of the Board of Directors. An advisory director shall be entitled, but shall have no obligation, to attend and be present at the meetings of the Board of Directors, although a meeting of the Board of Directors may be held without notice to any advisory director and no advisory director shall be considered in determining whether a quorum of the Board of Directors is present. An advisory director shall advise and counsel the Board of Directors on the business and operations of the Corporation as requested by the Board of Directors; however, an advisory director shall not be entitled to vote on any matter presented to the Board of Directors. An advisory director, in consideration of such person serving as an advisory director, shall be entitled to receive from the Corporation such fees for attendance at meetings of the Board of Directors as the Board shall from time to time determine. In addition, an advisory director shall be entitled to receive from the Corporation reimbursement for the reasonable expenses incurred by such person in connection with the performance of such person's duties as an advisory director.

#### ARTICLE IV

##### EXECUTIVE AND OTHER COMMITTEES

Section 1. *Executive Committee.* The Board of Directors may, by resolution adopted by a majority of the entire Board, designate annually three or more of its members to constitute members or alternate members of an Executive Committee, which Committee shall have and may exercise, between meetings of the Board, all the powers and authority of the Board in the management of the business affairs of the Corporation, including, if such Committee is so empowered and authorized by resolution adopted by a majority of the entire Board, the power and authority to declare a dividend and to authorize the issuance of stock, and may authorize the seal of the Corporation to be affixed to all papers that may require it, except that the Executive Committee shall not have such power or authority in reference to:

- (a) amending the Certificate of Incorporation of the Corporation;
- (b) adopting an agreement of merger or consolidation involving the Corporation;
- (c) recommending to the stockholders the sale, lease or exchange of all or substantially all of the property and assets of the Corporation;
- (d) recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution;

- (e) adopting, amending or repealing any Bylaw;
- (f) filling vacancies on the Board or on any committee of the Board, including the Executive Committee; or
- (g) amending or repealing any resolution of the Board which by its terms may be amended or repealed only by the Board.

The Board shall have power at any time to change the membership of the Executive Committee, to fill all vacancies in it and to discharge it, either with or without cause.

Section 2. *Other Committees.* The Board of Directors may, by resolution adopted by a majority of the entire Board, designate from among its members one or more other committees, each of which shall, except as otherwise prescribed by law, have such authority of the Board as may be specified in the resolution of the Board designating such committee. A majority of all the members of such committee may determine its action and fix the time and place of its meetings, unless the Board shall otherwise provide. The Board shall have power at any time to change the membership of, to fill all vacancies in and to discharge any such committee, either with or without cause.

Section 3. *Procedure; Meetings; Quorum.* Regular meetings of the Executive Committee or any other committee of the Board of Directors, of which no notice shall be necessary, may be held at such times and places as shall be fixed by resolution adopted by a majority of the members thereof. Special meetings of the Executive Committee or any other committee of the Board shall be called at the request of any member thereof. Notice of each special meeting of the Executive Committee or any other committee of the Board shall be sent by mail, delivery service, facsimile telecommunication, telegraph or telephone, or be delivered personally to each member thereof not later than the day before the day on which the meeting is to be held, but notice need not be given to any member who shall, either before or after the meeting, submit a signed waiver of such notice or who shall attend such meeting without protesting, prior to or at its commencement, the lack of such notice to such member. Any special meeting of the Executive Committee or any other committee of the Board shall be a legal meeting without any notice thereof having been given, if all the members thereof shall be present thereat. Notice of any adjourned meeting of any committee of the Board need not be given. The Executive Committee or any other committee of the Board may adopt such rules and regulations not inconsistent with the provisions of law, the Certificate of Incorporation of the Corporation or these Bylaws for the conduct of its meetings as the Executive Committee or any other committee of the Board may deem proper. A majority of the Executive Committee or any other committee of the Board shall constitute a quorum for the transaction of business at any meeting, and the vote of a majority of the members thereof present at any meeting at which a quorum is present shall be the act of such committee. The Executive Committee or any other committee of the Board of Directors shall keep written minutes of its proceedings and shall report on such proceedings to the Board.

## ARTICLE V

### OFFICERS

Section 1. *Number; Term of Office.* The officers of the Corporation shall be elected by the Board of Directors, and shall consist of a President and a Secretary. The Board of Directors, in its discretion, may also elect a Chairman of the Board (who must be a director) and a Vice Chairman of the Board (who must be a director), a Chief Executive Officer, one or more Vice Presidents, a Treasurer and such other officers as the Board of Directors may designate, all of whom shall hold office until their successors are elected and qualified. Any two or more offices may be held by the same person. The Board of Directors may designate which of such officers are to be treated as executive officers for purposes of these Bylaws or for any other purpose.

Section 2. *Removal.* Any officer may be removed, either with or without cause, by the Board of Directors at any meeting thereof called for that purpose, or, except in the case of any officer elected by the Board, by any committee or superior officer upon whom such power may be conferred by the Board.

Section 3. *Resignation.* Any officer may resign at any time by giving notice to the Board of Directors, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or the Secretary of the Corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. *Vacancies.* A vacancy in any office because of death, resignation, removal or any other cause may be filled for the unexpired portion of the term in the manner prescribed in these Bylaws for election to such office.

Section 5. *The Chief Executive Officer.* The Chief Executive Officer, if one is elected by the Board of Directors, shall be the chief executive officer of the Corporation and as such shall have general supervision and direction of the business and affairs of the Corporation, subject to the control of the Board of Directors. The Chief Executive Officer shall, if present and in the absence of the Chairman of the Board, preside at meetings of the stockholders, meetings of the Board and meetings of the Executive Committee. The Chief Executive Officer shall perform such other duties as the Board may from time to time determine. The Chief Executive Officer may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments authorized by the Board or any committee thereof empowered to authorize the same.

Section 6. *The President.* The President shall be the chief executive officer of the Corporation and as such shall have general supervision and direction of the business and affairs of the Corporation, subject to the control of the Board of Directors. The President shall, if present and in the absence of the Chairman of the Board, preside at meetings of the stockholders, meetings of the Board and meetings of the Executive Committee. The President shall perform such other duties as the Board may from time to time determine. The President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments authorized by the Board or any committee thereof empowered to authorize the same.

Section 7. *Chairman of the Board.* The Chairman of the Board shall, if present, preside at meetings of the stockholders, meetings of the Board and meetings of the Executive Committee. The Chairman of the Board shall counsel with and advise the President and perform such other duties as the Board or the Executive Committee may from time to time determine.

Section 8. *Vice Chairman.* The Vice Chairman of the Board, if there is one, shall advise and counsel the Chairman of the Board. The Vice Chairman of the Board shall assist the Chairman in developing policies, strategies, and an organization that will ensure that full advantage is taken of the long-range potential of the business. Further, the Vice Chairman of the Board shall exercise such powers and perform such duties as shall be assigned to or required of the Vice Chairman of the Board from time to time by the Board of Directors or the Executive Committee.

Section 9. *Vice Presidents.* Each Vice President shall have such powers and duties as shall be prescribed by the President (unless there is a Chief Executive Officer, in which case the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors. Any Vice President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments authorized by the Board or any committee thereof empowered to authorize the same.

Section 10. *Treasurer.* The Treasurer shall perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 11. *Secretary.* It shall be the duty of the Secretary to act as secretary at all meetings of the Board of Directors, of the Executive Committee and of the stockholders and to record the proceedings of such meetings in a book or books to be kept for that purpose; the Secretary shall see that all notices required to be given by the Corporation are duly given and served; the Secretary shall be custodian of the seal of the Corporation and shall affix the seal or cause it to be affixed to all certificates of stock of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws. The Secretary shall have charge of the stock ledger and also of the other books, records and papers of the Corporation and shall see that the reports, statements and other documents required by law are properly kept and filed; and the Secretary shall in general perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to such person by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 12. *Controller.* The Controller shall perform all of the duties incident to the office of the Controller and such other duties as from time to time may be assigned to such person by the President unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 13. *Assistant Treasurers, Secretaries and Controllers.* The Assistant Treasurers, the Assistant Secretaries and the Assistant Controllers shall perform such duties as shall be assigned to them by the Treasurer, Secretary or Controller, respectively, or by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 14. *Other Officers.* Other officers appointed by the Board of Directors, including but not limited to a Chief Operating Officer, a Chief Financial Officer or a Chief Technology Officer, shall perform the duties incident to their respective offices and such other duties as from time to time may be assigned to such person by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President.), the Chairman of the Board or the Board of Directors.

## ARTICLE VI INDEMNIFICATION

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

Section 2. *Derivative Actions.* The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of Delaware or the

court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of Delaware or such other court shall deem proper.

Section 3. *Determination of Indemnification.* Any indemnification under Section 1 or 2 of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 1 or 2 of this Article VI. Such determination shall be made (i) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (iii) by the stockholders.

Section 4. *Right to Indemnification.* Notwithstanding the other provisions of this Article VI, to the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or 2 of this Article VI, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Section 5. *Advancement of Expenses.* The Corporation shall pay the expenses (including attorneys' fees) incurred in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding, provided, however, that the payment of expenses incurred by a director, officer, employee or agent in advance of the final disposition of the action, suit or proceeding shall be made only upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay all amounts advanced if it should be ultimately determined that such person is not entitled to be indemnified under this Article VI or otherwise.

Section 6. *Indemnification and Advancement of Expenses Not Exclusive.* The indemnification and advancement of expenses provided by, or granted pursuant to the other Sections of this Article VI shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. All rights to indemnification under this Article VI shall be deemed to be provided by a contract between the Corporation and the director, officer, employee or agent who served in such capacity at any time while these Bylaws and other relevant provisions of the Delaware General Corporation Law and other applicable law, if any, are in effect. Any repeal or modification thereof shall not affect any rights or obligations then existing.

Section 7. *Insurance.* 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 is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against 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 the power to indemnify such person against such liability under the applicable provisions of the Delaware General Corporation Law.

Section 8. *Definitions of Certain Terms.* For purposes of this Article VI, references to “the Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

For purposes of this Article VI, references to “other enterprise” shall include employee benefit plans; references to “fines” shall include any excise tax assessed on a person with respect to any employee benefit plan; and references to “serving at the request of the Corporation” shall include any service as a director, officer, employee or agent of the Corporation that imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Corporation” as referred to in this Article VI.

Section 9. *Continuation and Successors.* The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VI shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 10. *Exclusive Jurisdiction.* The Delaware Court of Chancery is vested with exclusive jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this Article VI or under any statute, agreement, vote of stockholders or disinterested directors, or otherwise. The Delaware Court of Chancery may summarily determine the Corporation’s obligation to advance expenses (including attorneys’ fees).

ARTICLE VII  
CAPITAL STOCK

Section 1. *Certificates for Shares.* Certificates representing shares of stock of each class of the Corporation, whenever authorized by the Board of Directors, shall be in such form as shall be approved by the Board. The certificates representing shares of stock of each class shall be signed by, or in the name of, the Corporation by the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or a Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer of the Corporation, and sealed with the seal of the Corporation, which may be by a facsimile thereof. Any or all such signatures may be facsimiles if countersigned by a transfer agent or registrar. Although any officer, transfer agent or registrar whose manual or facsimile signature is affixed to such a certificate ceases to be such officer, transfer agent or registrar before such certificate has been issued, it may nevertheless be issued by the Corporation with the same effect as if such officer, transfer agent or registrar were still such at the date of its issue.

The stock ledger and blank share certificates shall be kept by the Secretary or by a transfer agent or by a registrar or by any other officer or agent designated by the Board.

Section 2. *Transfer of Shares.* Transfer of shares of stock of each class of the Corporation shall be made only on the books of the Corporation by the holder thereof, or by such holder's attorney thereunto authorized by a power of attorney duly executed and filed with the Secretary of the Corporation or a transfer agent for such stock, if any, and on surrender of the certificate or certificates for such shares properly endorsed or accompanied by a duly executed stock transfer power and the payment of all taxes thereon. The person in whose name shares stand on the books of the Corporation shall be deemed the owner thereof for all purposes as regards the Corporation; provided, however, that whenever any transfer of shares shall be made for collateral security and not absolutely, and written notice thereof shall be given to the Secretary or to such transfer agent, such fact shall be stated in the entry of the transfer. No transfer of shares shall be valid as against the Corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the Corporation to the extent provided by law, until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

Section 3. *Address of Stockholders.* Each stockholder shall designate to the Secretary or transfer agent of the Corporation an address at which notices of meetings and all other corporate notices may be served or mailed to such person, and, if any stockholder shall fail to designate such address, corporate notices may be served upon such person by mail directed to such person at such person's post office address, if any, as the same appears on the share record books of the Corporation or at such person's last known post office address.

Section 4. *Lost, Destroyed and Mutilated Certificates.* The holder of any share of stock of the Corporation shall immediately notify the Corporation of any loss, theft, destruction or mutilation of the certificate therefor; the Corporation may issue to such holder a new certificate or certificates for shares, upon the surrender of the mutilated certificate or, in the case of loss, theft or



destruction of the certificate, upon satisfactory proof of such loss, theft or destruction; the Board of Directors, or a committee designated thereby, or the transfer agents and registrars for the stock, may, in their discretion, require the owner of the lost, stolen or destroyed certificate, or such person's legal representative, to give the Corporation a bond in such sum and with such surety or sureties as they may direct to indemnify the Corporation and said transfer agents and registrars against any claim that may be made on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 5. *Regulations.* The Board of Directors may make such additional rules and regulations as it may deem expedient concerning the issue and transfer of certificates representing shares of stock of each class of the Corporation and may make such rules and take such action as it may deem expedient concerning the issue of certificates in lieu of certificates claimed to have been lost, destroyed, stolen or mutilated.

Section 6. *Fixing Date for Determination of Stockholders of Record.* In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. A determination of stockholders entitled to notice of or to vote at a meeting of the stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

## ARTICLE VIII

### SEAL

The Board of Directors may provide for a corporate seal bearing the name of the Corporation in such form and bearing such other words or figures as the Board of Directors may approve and adopt. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

## ARTICLE IX

### FISCAL YEAR

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

ARTICLE X

WAIVER OF NOTICE

Whenever any notice whatsoever is required to be given by these Bylaws, by the Certificate of Incorporation of the Corporation or by law, the person entitled thereto may, either before or after the meeting or other matter in respect of which such notice is to be given, waive such notice in writing, which writing shall be filed with or entered upon the records of the meeting or the records kept with respect to such other matter, as the case may be, and in such event such notice need not be given to such person and such waiver shall be deemed equivalent to such notice.

ARTICLE XI

AMENDMENTS

Any Bylaw (including this Article XI) may be adopted, repealed, altered or amended at any meeting of the Board of Directors by the affirmative vote of a majority of the directors, provided that such proposed action in respect thereof shall be stated in the notice of such meeting.

ARTICLE XII

MISCELLANEOUS

Section 1. *Execution of Documents.* The Board of Directors or any committee thereof shall designate the officers, employees and agents of the Corporation who shall have power to execute and deliver deeds, contracts, mortgages, bonds, debentures, notes, checks, drafts and other orders for the payment of money and other documents for and in the name of the Corporation and may authorize such officers, employees and agents to delegate such power (including authority to redelegate) by written instrument to other officers, employees or agents of the Corporation. Such delegation may be by resolution or otherwise and the authority granted shall be general or confined to specific matters, all as the Board or any such committee may determine. In the absence of such designation referred to in the first sentence of this Section 1, the officers of the Corporation shall have such power so referred to, to the extent incident to the normal performance of their duties.

Section 2. *Deposits.* All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation or otherwise as the Board of Directors or any committee thereof or any officer of the Corporation to whom power in that respect shall have been delegated by the Board or any such committee shall select.

Section 3. *Checks.* All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidence of indebtedness of the Corporation, shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by resolution of the Board of Directors or of any committee thereof.

Section 4. *Proxies in Respect of Stock or Other Securities of Other Corporations.* The Board of Directors or any committee thereof shall designate the officers of the Corporation who shall have authority from time to time to appoint an agent or agents of the Corporation to exercise in the name and on behalf of the Corporation the powers and rights that the Corporation may have as the holder of stock or other securities in any other corporation, and to vote or consent in respect of such stock or securities; such designated officers may instruct the person or persons so appointed as to the manner of exercising such powers and rights; and such designated officers may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal, or otherwise, such written proxies, powers of attorney or other instruments as they may deem necessary or proper in order that the Corporation may exercise its said powers and rights.

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 01:54 PM 08/08/2014  
FILED 01:40 PM 08/08/2014  
SRV 141051819 - 5583494 FILE

**CERTIFICATE OF FORMATION**

**OF**

**FORUM GLOBAL HOLDINGS, LLC**

This Certificate of Formation of Forum Global Holdings, LLC (the "LLC") dated this 8th day of August, 2014 is being duly executed and filed by Mark Hughes, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. '§18-101, et seq.)

FIRST. The name of the limited liability company formed hereby is:

FORUM GLOBAL HOLDINGS, LLC

SECOND. The address of the registered office of the LLC in the State of Delaware is:

National Registered Agents, Inc.  
160 Greentree Drive, Suite 101  
Dover, DE 19904

The name and address of its registered agent for service of process in the State of Delaware is:

National Registered Agents, Inc.  
160 Greentree Drive, Suite 101  
Dover, DE 19904

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the date first written above.

/s/ Mark Hughes  
Name: Mark Hughes  
Authorized Person

**LIMITED LIABILITY COMPANY AGREEMENT**  
**OF**  
**FORUM GLOBAL HOLDINGS, LLC**  
*A Delaware Limited Liability Company*

This LIMITED LIABILITY COMPANY AGREEMENT OF FORUM GLOBAL HOLDINGS, LLC (this "**Agreement**"), dated as of August 8, 2014, is adopted, executed and agreed to by the Sole Member (as defined below).

**1. Formation.** Effective with the filing of the Certificate (as defined below) on August 8, 2014, pursuant to Section 2, FORUM GLOBAL HOLDINGS, LLC (the "**Company**") was formed as a Delaware limited liability company under and pursuant to the Delaware Limited Liability Company Act (the "**Act**").

**2. Term.** The Company commenced on the effective date of the filing of the Certificate of Formation (the "**Certificate**") pursuant to the Act and shall have a perpetual existence, unless and until it is dissolved in accordance with Section 9 below.

**3. Registered Office; Registered Agent.** The registered office and registered agent of the Company in the State of Delaware shall be as specified in the Certificate or as determined by the Managers from time to time in the manner provided by applicable law.

**4. Purposes.** The purposes of the Company are to carry on any lawful business, purpose or activity for which limited liability companies may be formed under the Act.

**5. Sole Member.** Forum International Holdings, Inc., a corporation organized under the laws of the State of Delaware, shall be the sole member of the Company (the "**Sole Member**") and, in exchange for the contributions described below, shall hereby subscribe for and receive One (1) Common Share in the Company (the "**Shares**"), representing all of the outstanding membership interests in the Company. The Shares shall be certificated and represented by a membership interest certificate in the form of Exhibit A attached hereto which shall be issued upon receipt of the contributions described below.

**6. Contributions.** Upon execution of this Agreement, the Sole Member shall contribute the cash and/or property described on Exhibit B hereto in exchange for the Shares (which Shares, for the purposes of this contribution shall be deemed to have a value equal to the cash amount or property value described on Exhibit B). Without creating any rights in favor of any third party, the Sole Member may, from time to time, make contributions of cash or property to the capital of the Company, but shall have no obligation to do so. Such additional contributions may be for additional Shares of the Company or as contributions to the capital of the Company without additional issuances of Shares in the sole discretion of the Sole Manager.

**7. Distributions.** The Sole Member shall be entitled to (a) receive all distributions (including, without limitation, liquidating distributions) made by the Company and (b) enjoy all other rights, benefits and interests in the Company.

## 8. Management.

(a) Management by Managers. The Company shall be managed by “managers” (as such term is used in the Act) according and subject to the remaining provisions of this Article 8 and, except as expressly provided in this Agreement, no Member by virtue of having the status of a Member shall have any management power over the business and affairs of the Company or actual or apparent authority to enter into contracts on behalf of, or to otherwise bind, the Company. The business and affairs of the Company shall be managed by the sole Manager “**Sole Manager**”) who shall initially be James W. Harris. The Sole Manager may be replaced at the discretion of the Sole Member. Under the direction of the Sole Manager, the day-to-day activities of the Company shall be conducted on the Company’s behalf by the Officers, who shall be agents of the Company. In addition to the powers that now or hereafter can be granted under the Act and to all other powers granted under any other provision of this Agreement, the Sole Manager shall have full power and authority to do all things on such terms as they may deem necessary or appropriate to conduct, or cause to be conducted, the business and affairs of the Company, including (subject to any applicable voting requirements or consent or approval rights of any person, if any, including those contained in this Agreement or applicable law): (a) the making of any expenditures, the lending or borrowing of money, the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness and the incurring of any other obligations; (b) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Company; (c) the merger or other combination of the Company with or into another person or the conversion of the Company from a limited liability company to any other business entity; (d) the use of the assets of the Company (including cash on hand) for any purpose consistent with the terms of this Agreement and the repayment of obligations of the Company; (e) the negotiation, execution and performance of any contracts, conveyances or other instruments; (f) the distribution of Company cash or other property; (g) the selection, engagement and dismissal of Officers, employees and agents, attorneys, accountants, engineers, consultants and contractors and the determination of their compensation and other terms of employment or hiring; (h) the maintenance of insurance for the benefit of the Company, (i) the acquisition or disposition of assets; (j) the formation of, or acquisition of an interest in, or the contribution of property to, any person; (k) the control of any matters affecting the rights and obligations of the Company, including the commencement, prosecution and defense of actions at law or in equity and otherwise engaging in the conduct of litigation and the incurring of legal expense and the settlement of claims and litigation; (l) the indemnification of any person against liabilities and contingencies to the extent permitted by applicable law and this Agreement; (m) the voting of equity interests of the Company in any other person, including any subsidiary; (n) the issuance of Shares; (o) the approval of operating budgets and capital expenditure budgets; and (p) the sale of all or substantially all of the Company’s assets or any significant portion thereof.

(b) The Sole Manager may appoint certain agents of the Company to be referred to as “officers” of the Company (and “**Officers**” in this Agreement) and designate such titles (such as Chief Executive Officer, President, Chief Operating Officer, Vice-President, Secretary and Treasurer) as are customary for corporations under Delaware law, and such Officers shall have the power, authority and duties described by resolution of the Sole Manager or as is customary for each such position. In addition to or in lieu of Officers, the Sole Manager may authorize any person to take any action or perform any duties on behalf of the Company (including any action or duty reserved to any particular Officer) and any such person may be referred to as an “**authorized person.**” An employee or other agent of the Company shall not be an authorized person unless specifically appointed as such by the Sole Manager.

**9. Dissolution.** The Company shall dissolve and its affairs shall be wound up at such time, if any, as the Sole Member may elect. No other event (including without limitation, an event described in Section 18-801(a)(4) of the Act) will cause the Company to dissolve.

**10. Liability.**

(a) The Sole Member shall not have any liability for the obligations or liabilities of the Company except to the extent provided herein or by applicable law.

(b) The Company shall indemnify and hold harmless the Sole Member and the Sole Manager and their respective partners, shareholders, officers, directors, managers, employees, agents and representatives, and the partners, shareholders, officers, directors, managers, employees, agents and representatives of such persons to the fullest extent permitted by applicable law.

**11. Amendment.** This Agreement may be amended from time to time only by a written consent executed by the Sole Member.

**12. Governing Law. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE (EXCLUDING ITS CONFLICT-OF-LAWS RULES).**

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the undersigned, being the Sole Member of the Company, has caused this Agreement to be duly executed as of the date first written above.

**FORUM INTERNATIONAL HOLDINGS, INC.**

By: /s/ James W. Harris  
James W. Harris, President

**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
FORUM GLOBAL HOLDINGS, LLC**



EXHIBIT A

FORM OF COMMON SHARE CERTIFICATE

THESE SHARES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”, AND MAY NOT BE OFFERED OR SOLD, UNLESS REGISTERED UNDER THE SECURITIES ACT OR UNLESS AN EXEMPTION FROM REGISTRATION IS AVAILABLE (AND, IN SUCH CASE, AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY SHALL HAVE BEEN DELIVERED TO THE COMPANY TO THE EFFECT THAT SUCH OFFER OR SALE IS NOT REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT). THESE SHARES ARE SUBJECT TO CERTAIN VOTING AGREEMENTS, RESTRICTIONS ON TRANSFER AND OTHER TERMS AND CONDITIONS SET FORTH IN THE LIMITED LIABILITY COMPANY AGREEMENT OF THE COMPANY, DATED AS OF AUGUST 8, 2014 (AS SUCH AGREEMENT MAY BE FURTHER AMENDED OR RESTATED FROM TIME TO TIME), A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY AT ITS PRINCIPAL EXECUTIVE OFFICES.

Certificate of Common Shares in FORUM GLOBAL HOLDINGS, LLC

Certificate No. [ ]

FORUM GLOBAL HOLDINGS, LLC, a Delaware limited liability company (the “Company”), hereby certifies that [ ] (the “Holder”) is the registered owner of [ ] Common Shares in the Company (the “Common Shares”). The rights, preferences and limitations of the Common Shares are set forth in the Limited Liability Company Agreement of the Company dated as of August 8, 2014, as further amended or restated or supplemented from time to time (the “LLC Agreement”), a copy of which is on file at the principal office of the Company.

This Certificate and the Common Shares evidenced hereby are not negotiable or transferable except as provided in the LLC Agreement referred to therein or as consented to or approved by the Sole Member. This Certificate and the Common Shares evidenced hereby are governed by Article 8 of the Uniform Commercial Code.

Dated: [ ]

FORUM GLOBAL HOLDINGS, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**  
**CONTRIBUTIONS**

<u>Member</u>	<u>Contributed Cash or Property</u>
FORUM INTERNATIONAL HOLDINGS, INC.	£ 100



**ARC GLOBAL TUBING, L.P.**

4300,400 3<sup>RD</sup> Avenue SW

Calgary, Alberta T2P 4H2

Canada

May 8, 2007

Delaware Secretary of State  
Division of Corporations  
401 Federal Street - Suite 4  
Dover Delaware 19901

Re: Consent to Use of Similar Name

To whom it may concern:

Please accept this letter as formal consent from the undersigned limited liability company to the use of the name "ARC Global Tubing, LLC" in connection with the formation of a Delaware limited liability company.

Sincerely,

ARC GLOBAL TUBING, L.P.

By: ARC Global Tubing GP, LLC.  
Its General Partner

//s// NANCY SMITH

Nancy Smith, Manager

**CERTIFICATE OF AMENDMENT  
TO  
CERTIFICATE OF FORMATION  
OF  
ARC GLOBAL TUBING, LLC**

ARC GLOBAL TUBING, LLC, a limited liability company organized and existing under the Delaware Limited Liability Company Act (6 Del. C. § 18-101 *et. seq.*) of the State of Delaware does hereby certify:

FIRST: The name of the limited liability company is ARC Global Tubing, LLC.

SECOND: The Certificate of Formation of the limited liability company is hereby amended to reflect a change in the name of the limited liability company by deleting Section 1 of the Certificate of Formation in its entirety and adding the following:

1. The name of the limited liability company is Forum Global Tubing LLC (the "Company")."

THIRD: The Certificate of Formation of the limited liability company is hereby amended to reflect a change in the name of the registered agent by deleting the text of Section 2 of the Certificate of Formation in its entirety and adding the following:

2. The address of the registered office of the Company in the State of Delaware is 1209 Orange Street, New Castle County, Wilmington, DE 19801, and the registered agent for services of process on the Partnership at such address required to be maintained in accordance with Section 17-104 of the Delaware Limited Liability Company Act shall be The Corporation Trust Company.

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate of Amendment of the Company on this 2nd day of July, 2013.

/s/ James W. Harris

By: James W. Harris

Title: President

**FORUM GLOBAL TUBING LP**

4300, 400 3rd Avenue SW  
Calgary, Alberta T2P 4H2  
Canada

July 2, 2013

Delaware Secretary of State  
Division of Corporations  
401 Federal Street - Suite 4  
Dover, DE 19901

Re: Consent to Use of Similar Name

To Whom It May Concern:

Please accept this letter as formal consent from the undersigned limited liability company to the use of the name "Forum Global Tubing LLC" in connection with the formation of a Delaware limited liability company.

Sincerely,

FORUM GLOBAL TUBING LP

By: ARC Global Tubing GP, L.L.C.,  
its general partner

/s/ James W. Harris

---

James W. Harris

Manager

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 05:52 PM 07/09/2013  
FILED 05:40 PM 07/09/2013  
SRV 130860388 - 4348809 FILE

STATE OF DELAWARE  
CERTIFICATE OF AMENDMENT CHANGING ONLY THE  
REGISTERED OFFICE OR REGISTERED AGENT OF A  
LIMITED LIABILITY COMPANY

The limited liability company organized and existing under the Limited Liability Company Act of the State of Delaware, hereby certifies as follows:

1. The name of the limited liability company is Forum Global Tubing LLC.
2. The Registered Office of the limited liability company in the State of Delaware is changed to 160 Greentree Drive, Suite 101 (street), in the City of Dover, Zip Code 19904. The name of the Registered Agent at such address upon whom process against this limited liability company may be served is National Registered Agents, Inc.

By: /s/ John Ivascu  
Authorized Person

Name: John Ivascu, Authorized Person  
Print or Type

## AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF

## FORUM GLOBAL TUBING LLC

a Delaware limited liability company

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") of Forum Global Tubing LLC (the "Company"), effective as of July 1, 2013 is adopted, executed and agreed to by Forum Global Tubing LP, a Delaware limited partnership and the sole member of the Company (the "Sole Member").

WHEREAS, in connection with the indirect acquisition of the Company by Forum US, Inc., a Delaware corporation ("Forum") pursuant to the Equity Purchase Agreement (the "Equity Purchase Agreement") dated June 4, 2013, by and among Global Tubing, LLC, a Delaware limited liability company ("GT"), Forum Global Tubing LP (f/k/a ARC Global Tubing, L.P.), a Delaware limited partnership ("Forum Global Tubing LP"), the Company, the partners of ARC GT, Q-GT(V) Investment Partners, LLC, a Delaware limited liability company, and Forum, a certificate of amendment to the Certificate of Formation of the Company was filed in the office of the Secretary of State of the State of Delaware on July 2, 2013 changing the name of the Company from ARC Global Tubing, LLC to Forum Global Tubing LLC;

WHEREAS, in connection with the Equity Purchase Agreement, a certificate of amendment was filed in the office of the Secretary of State of the State of Delaware on July 2, 2013 changing the name of ARC GT from ARC Global Tubing, L.P. to Forum Global Tubing LP;

WHEREAS, Forum Global Tubing LP is the Sole Member of the Company;

NOW, THEREFORE, for and in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Limited Liability Company Agreement of the Company dated as of May 8, 2007 is hereby amended and restated in its entirety as follows:

1. **Formation.** The Company was formed as a Delaware limited liability company by the filing of the Certificate of Formation (the "Certificate") in the office of the Secretary of State of the State of Delaware under and pursuant to the Delaware Limited Liability Company Act (the "Act") on May 8, 2007.

2. **Name.** The name of the Company is "Forum Global Tubing LLC." Subject to all applicable laws, all business of the Company shall be conducted in such name or under such other name or names as the Sole Member shall determine from time to time. The Sole Member shall cause to be filed on behalf of the Company such assumed or fictitious name certificates or similar instruments as may from time to time be required by law.



3. **Business.** The business of the Company shall be to transact any or all lawful business for which limited liability companies may be organized under the Act. The Company shall have any and all powers that are necessary or desirable to carry out the purposes and business of the Company and to take all such other actions incidental or ancillary to any of the foregoing as the Sole Member may determine to be necessary or desirable, to the extent the same may be legally exercised by limited liability companies under the Act.

4. **Term.** The Company shall have perpetual existence.

5. **Registered Office; Registered Agent; Other Offices.** The registered office of the Company required by the Act to be maintained in the State of Delaware shall be located at 1209 Orange Street, Wilmington, Delaware 19801, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be NRAI Corporate Services. The principal office of the Company shall be located at 920 Memorial City Way, Suite 1000, Houston, Texas 77024, or such other place as the Sole Member may from time to time designate. The Company may maintain offices at such other place or places within or outside the State of Delaware as the Sole Partner determines to be necessary or appropriate.

6. **Member.** Forum Global Tubing LP, a Delaware limited partnership, is the Sole Member of the Company.

7. **Contributions.** Without creating any rights in favor of any third party, the Sole Member may, from time to time, make additional contributions of cash or property to the capital of the Company, but shall have no obligation to do so.

8. **Rights; Distributions.** The Sole Member shall (a) have the right to exercise all rights of a member under the Act, (b) be entitled to receive all distributions, subject to Section 18-607 of the Act, (including, without limitation, liquidating distributions) made by the Company and (c) have the right to enjoy all other rights, benefits and interests in the Company.

#### 9. **Management.**

(a) The management of the Company shall be vested in the Board of Managers, provided however, any management action may be taken by written resolution of the Sole Member acting in its sole discretion. The number of Managers which constitutes the Board of Managers shall be the number of Managers appointed from time to time by the Sole Member. The affirmative vote or written consent of the Board shall be the act of the Board.

(b) Any action required or permitted by this Agreement or by applicable law to be taken at a meeting of the Managers may be taken without a meeting. The action shall be evidenced by written consent describing the action taken and signed by a majority of the Managers. Such action shall be effective when a majority of the Managers sign the consent, unless the consent specifies a different effective date.

(c) The Board of Managers may, from time to time, appoint one or more persons to be officers of the Company. Any officers who are so designated shall have such titles and authority and perform such duties as the Board of Managers may, from time to time, delegate to them. The salaries or other compensation, if any, of the officers of the Company shall be fixed from time to time by the Sole Member.

(d) The term of all officers shall commence upon their election or appointment and shall continue until their respective successors are elected or appointed and qualified or until their resignation or removal. Any officer may be removed as such, either with or without cause or notice, by the Sole Member. An officer may resign by written notice to the Company. The resignation shall be effective upon its receipt by the Company or at a subsequent time specified in the notice of resignation.

(e) The Sole Member shall have the power to fill any vacancies in any offices occurring for whatever reason. Designation of an officer shall not of itself create any contract rights. Nothing contained in this Section 9 shall grant to any officer the authority or power to take any action requiring the agreement, consent or vote of the Board unless the same has been obtained.

10. **Dissolution.** The Company shall dissolve and its affairs shall be wound up at such time, if any, as the Sole Member may elect. No other event will cause the Company to dissolve, unless otherwise required by law.

11. **Governing Law.** THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE (EXCLUDING ANY CONFLICT-OF-LAWS RULES THAT WOULD RESULT IN THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION).

12. **Amendments.** This Agreement may be modified, altered, supplemented or amended at any time only by a written instrument executed and delivered by the Sole Member.

13. **Liability.** The Sole Member and the officers shall not have any liability for the obligations, debts or liabilities of the Company except to the extent provided in the Act.

14. **Exculpation and Indemnity.**

(a) Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, the Sole Member, the Managers and the officers (each a "Covered Person" and, collectively, the "Covered Persons") shall not be liable or accountable in damages or otherwise to the Company for any act or omission done or omitted by a Covered Person in good faith, unless such act or omission constitutes gross negligence, willful misconduct or a breach of this Agreement on the part of the Covered Person. The Company shall indemnify each Indemnified Person to the fullest extent permitted by applicable law against any loss, liability, damage, judgment, demand, claim, cost or expense (each a "Claim") incurred by or asserted against the Indemnified Person (including without limitation, reasonable attorneys' fees and disbursements incurred in the defense thereof) arising out of any act or omission of the Indemnified Person in connection with the Company, unless such act or omission constitutes bad faith, gross negligence or willful misconduct on the part of the Indemnified Person.

(b) Expenses incurred by an Indemnified Person in defending any Claim shall be paid by the Company in advance of the final disposition of such Claim upon receipt of any

undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company as authorized in this Section 14.

(c) The indemnification and advancement of expenses provided by or granted pursuant to this Section 14 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Certificate, this Agreement, any other agreement or otherwise, both as to action in such Indemnified Person's official capacity and as to action in another capacity while holding such office, it being the policy of the Company that indemnification of the Indemnified Persons shall be made to the fullest extent permitted by law. The provisions of this Section 14 shall not be deemed to preclude the indemnification of any Person who is not specified in Section 14(a) but whom the Company has the power or obligation to indemnify under the provisions of the Act, or otherwise.

(d) The Company may purchase and maintain insurance on behalf of any Indemnified Person against any Claim asserted against such Indemnified Person and incurred by such Indemnified Person in any official capacity, or arising out of such Indemnified Person's official status, whether or not the Company would have the power or the obligation to indemnify such Indemnified Person against such Claim under the provisions of this Section 14.

(e) The Company may, to the extent authorized from time to time by the Member, provide rights to indemnification and to the advancement of expenses to employees and agents of the Company similar to those conferred in this Section 14 to the Indemnified Persons.

(f) As used in this Section 14, the following terms, when capitalized, shall have the following meanings:

"Entity" shall mean any foreign or domestic general partnership, limited partnership, limited liability company, corporation, sole proprietorship, joint enterprise, trust, business trust, employee benefit plan, cooperative or association.

"Indemnified Person" means each Covered Person and any Person who at any time shall be, or shall have been, a director, member, manager or officer of the Company, or any such Person who is or was serving at the request of the Company as a director, member, manager, officer, partner, venturer, proprietor, trustee, employee, administrator, agent or similar functionary of an Entity.

"Person" shall mean any individual or Entity, and any heir, executor, administrator, legal representative, successor or assign of such individual or Entity where the context so admits.

*[Signature Page Follows.]*

**IN WITNESS WHEREOF**, the undersigned have caused this Amended and Restated Limited Liability Company Agreement to be duly executed as of the date first set forth above.

FORUM GLOBAL TUBING LP

By: Forum US, Inc., its  
general partner

By: /s/ James W. Harris

James W. Harris  
President

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 05:29 PM 04/23/2007  
FILED 05:29 PM 04/23/2007  
SRV 070464767 - 4340489 FILE

**CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
ARC GLOBAL TUBING, L.P.**

This Certificate of Limited Partnership (this "Certificate") of ARC Global Tubing, L.P. (the "Partnership"), dated as of April 20, 2007, has been duly executed and is being filed in accordance with the provisions of the Delaware Revised Uniform Limited Partnership Act (the "Act").

1. The name of the limited partnership formed hereby is ARC Global Tubing, L.P.
2. The address of the initial registered office of the Partnership in the State of Delaware is 615 South Dupont Highway, Kent County, Dover, DE 19901, and the registered agent for service of process on the Partnership at such address required to be maintained in accordance with Section 17-104 of the Act shall be Capitol Services, Inc.
3. The name of the general partner of the Partnership is ARC Global Tubing GP, L.L.C., and its mailing and business address is 4300, 400 3<sup>rd</sup> Avenue SW, Calgary, AB T2P 4H2 Canada.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Limited Partnership of ARC Global Tubing, L.P. as of the date first written above.

ARC Global Tubing, L.P.

By: ARC Global Tubing GP, L.L.C., its general partner

By: /s/ Nancy L. Smith

\_\_\_\_\_  
Nancy L. Smith, Manager

**ARC GLOBAL TUBING, LLC**

4300, 400 3<sup>RD</sup> Avenue SW

Calgary, Alberta T2P 4H2

Canada

April 24, 2007

Delaware Secretary of State  
Division of Corporations  
401 Federal Street - Suite 4  
Dover, Delaware 19901

Re: Consent to Use of Similar Name

To whom it may concern:

Please accept this letter as formal consent from the undersigned limited liability company to the use of the name "ARC Global Tubing, LP" in connection with the formation of a Delaware limited partnership.

Sincerely,

ARC GLOBAL TUBING, LLC

By: /s/ Douglas Freel

Douglas Freel, Manager

**CERTIFICATE OF AMENDMENT  
TO  
CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
ARC GLOBAL TUBING, L.P.**

ARC GLOBAL TUBING, L.P., a limited partnership organized and existing under the laws (6 Del. C. § 17-101 *et. seq.*) of the State of Delaware does hereby certify:

FIRST: The name of the limited partnership is ARC Global Tubing, L.P.

SECOND: The Certificate of Limited Partnership of the limited partnership is hereby amended to reflect a change in the name of the limited partnership by deleting the text of Section 1 of the Certificate of Limited Partnership in its entirety and adding the following:

1. The name of the limited partnership is Forum Global Tubing LP (the "Partnership").

THIRD: The Certificate of Limited Partnership of the limited partnership is hereby amended to reflect a change in the address of the initial registered office and the name of the registered agent by deleting the text of Section 2 of the Certificate of Limited Partnership in its entirety and adding the following:

2. The address of the registered office of the Partnership in the State of Delaware is 1209 Orange Street, New Castle County, Wilmington, DE 19801, and the registered agent for services of process on the Partnership at such address required to be maintained in accordance with Section 17-104 of the Delaware Revised Uniform Limited Partnership Act shall be The Corporation Trust Company.

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate of Amendment of the Partnership on this 2nd day of July, 2013.

ARC Global Tubing, L.P.

By: ARC Global Tubing GP, L.L.C., its general partner

/s/ James W. Harris

By: James W. Harris

Title: Manager

STATE OF DELAWARE  
CERTIFICATE OF AMENDMENT CHANGING ONLY THE  
REGISTERED OFFICE OR REGISTERED AGENT OF A  
LIMITED PARTNERSHIP

The limited partnership organized and existing under the Limited Partnership Act of the State of Delaware, hereby certifies as follows:

1. The name of the limited partnership is Forum Global Tubing LP.
2. The Registered Office of the limited partnership in the State of Delaware is changed to 160 Greentree Drive, Suite 101 (street), in the City of Dover, Zip Code 19904. The name of the Registered Agent at such address upon whom process against this limited partnership may be served is National Registered Agents, Inc.

By: ARC GLOBAL TUBING GP, L.L.C  
General Partner

Name: /s/ John Ivascu, Authorized Person  
Print or Type



**AMENDED AND RESTATED**  
**AGREEMENT OF LIMITED PARTNERSHIP**  
**OF**  
**FORUM GLOBAL TUBING LP**

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP of Forum Global Tubing LP, a Delaware limited partnership (the "Partnership"), effective as of July 1, 2013 (this "Agreement"), is entered into and executed by Forum US, Inc., a Delaware corporation ("Forum" and in its capacity as the general partner of the Partnership, the "General Partner"), and the limited partners set forth on the signature page hereto (collectively, the "Limited Partners").

**RECITALS**

WHEREAS, in connection with the acquisition of the Partnership by the Partners pursuant to the Equity Purchase Agreement (the "Equity Purchase Agreement") dated June 4, 2013, by and among Global Tubing, LLC, a Delaware limited liability company ("GT"), the Partnership, ARC Global Tubing, LLC, a Delaware limited liability company a wholly-owned subsidiary of the Partnership ("ARC LLC"), the partners of the Partnership, Q-GT(V) Investment Partners, LLC, a Delaware limited liability company, and the General Partner, a certificate of amendment to the Certificate of Limited Partnership of the Partnership was filed in the office of the Secretary of State of the State of Delaware on July 2, 2013 changing the name of the Partnership from ARC Global Tubing, L.P. to Forum Global Tubing LP;

WHEREAS, effective on the closing of the transactions contemplated under the Equity Purchase Agreement, Forum became the General Partner of the Partnership;

WHEREAS, the Partners deem it in the best interest of the Partnership to amend and restate the First Amended and Restated Agreement of Limited Partnership of the Partnership dated as of December 21, 2009;

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Amended and Restated Agreement of Limited Partnership of ARC GT dated as of December 21, 2009 is hereby amended and restated in its entirety as follows:

**ARTICLE I  
DEFINITIONS**

The following definitions shall for all purposes, unless otherwise clearly indicated to the contrary, apply to the terms used in this Agreement.

“Act” means the Delaware Revised Uniform Limited Partnership Act, as amended, supplemented or restated from time to time, and any successor to such statute.

“Certificate of Limited Partnership” means the Certificate of Limited Partnership of the Partnership filed with the Secretary of State of the State of Delaware on April 23, 2007, as such Certificate of Limited Partnership may be amended, supplemented or restated from time to time.

“General Partner” means the general partner of the Partnership. Forum US, Inc. is the General Partner of the Partnership.

“Limited Partners” means the limited partners of the Partnership. Forum US, Inc. and FET Holdings LLC are the Limited Partners of the Partnership.

“Partner” means the General Partner or any Limited Partner.

“Percentage Interest” means the limited or general partnership interests in the Partnership as set forth in Section 2.7.

**ARTICLE II  
ORGANIZATIONAL MATTERS**

Section 2.1 Formation. The Partnership was formed as a Delaware limited partnership by the filing of the Certificate of Limited Partnership. Except as expressly provided to the contrary in this Agreement, the rights, duties (including fiduciary duties), liabilities and obligations of the Partners and the administration, dissolution and termination of the Partnership shall be governed by the Act.

Section 2.2 Name. The name of the Partnership shall be “Forum Global Tubing LP.” The Partnership’s business may be conducted under any other name or names as determined by the General Partner. The General Partner may change the name of the Partnership at any time and from time to time.

Section 2.3 Registered Office; Registered Agent; Principal Office; Other Offices. Unless and until changed by the General Partner, the registered office of the Partnership in the State of Delaware shall be located at 1209 Orange Street, Wilmington, Delaware 19801, and the registered agent for service of process on the Partnership in the State of Delaware at such registered office shall be NRAI Corporate Services. The principal office of the Partnership shall be located at 920 Memorial City Way, Suite 1000, Houston, Texas 77024, or such other place as the General Partner may from time to time designate. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the General Partner determines to be necessary or appropriate.

Section 2.4 Purpose. Subject to the further provisions hereof, the purpose of the Partnership is to engage in any lawful business or investment activities in which a partnership formed under the Act may engage or participate.

Section 2.5 Powers. The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purpose described in Section 2.4 and for the protection and benefit of the Partnership.

Section 2.6 Term. The term of the Partnership commenced upon the filing of the Certificate of Limited Partnership in accordance with the Act and shall continue in existence until the dissolution of the Partnership in accordance with the provisions of Article VIII. The existence of the Partnership as a separate legal entity shall continue until the cancellation of the Certificate of Limited Partnership as provided in the Act.

Section 2.7 Partnership Interests. The General Partner shall have a 0% general partner interest in the Partnership and a 99.999% limited partner interest in the Partnership, and FET Holdings LLC shall have a 0.001% limited partner interest in the Partnership.

### **ARTICLE III CAPITAL CONTRIBUTIONS**

The Partners each hereby agree to contribute to the Partnership such cash, property or services as determined by the General Partner, subject to the consent of each Limited Partner with respect to itself.

### **ARTICLE IV CAPITAL ACCOUNTS; ALLOCATIONS**

The General Partner may make such cash distributions as it, in its sole discretion, may determine without being limited to current or accumulated income or gains from any Partnership funds, including, without limitation, Partnership revenues, capital contributions or borrowed funds; *provided, however*, that no such distribution shall be made if, after giving effect thereto, the liabilities of the Partnership exceed the fair market value of the assets of the Partnership. In its sole discretion, the General Partner may, subject to the foregoing *proviso*, also distribute to the Partners other Partnership property, or other securities of the Partnership or other entities. All distributions by the General Partner shall be made in accordance with the Percentage Interests of the Partners.

**ARTICLE V  
MANAGEMENT AND OPERATIONS OF BUSINESS**

Except as otherwise expressly provided in this Agreement, all powers to control and manage the business and affairs of the Partnership shall be vested exclusively in the General Partner; the Limited Partners shall not have any power to control or manage the Partnership.

**ARTICLE VI  
RIGHTS AND OBLIGATIONS OF THE LIMITED PARTNERS**

The Limited Partners shall have no liability under this Agreement except as provided in Article III.

**ARTICLE VII  
INDEMNIFICATION**

Section 7.1 The Partners and all officers, directors, agents and employees of the Partners and the Partnership shall be indemnified as of right to the fullest extent not prohibited by law in connection with any actual or threatened action, suit or proceeding, civil, criminal, administrative, investigative or other (whether brought by or in the right of the Partnership or otherwise) arising out of their service to the Partnership or to another enterprise at the request of the Partnership; *provided, however*, that the Partnership shall not indemnify any indemnified person in connection with a proceeding (or part thereof) initiated by such person (other than a proceeding to enforce such person's rights to indemnification under this Article) unless such proceeding (or part thereof) was authorized by the General Partner.

Section 7.2 Employees of the Partnership who are not entitled to indemnification under Section 7.1 hereof shall be indemnified as of right in connection with any actual or threatened action, suit or proceeding, civil, criminal, administrative, investigative or other (whether brought by or in the right of the Partnership or otherwise) arising out of their service to the Partnership or to another enterprise at the request of the Partnership if, as determined by the Partnership in its sole discretion, such employee acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Partnership and, with respect to any criminal proceeding, had no reasonable cause to believe that his conduct was unlawful; *provided, however*, that the Partnership shall not indemnify an employee in connection with a proceeding (or part thereof) initiated by such employee (other than a proceeding to enforce such person's rights to indemnification under this Article) unless such proceeding (or part thereof) was authorized by the General Partner.

Section 7.3 The Partnership may indemnify agents of the Partnership who are not entitled to indemnification under Sections 7.1 or 7.2 hereof with such scope and effect as determined by the Partnership.

Section 7.4 As soon as practicable after receipt by any person entitled to indemnification hereunder of actual knowledge of any action, suit or proceeding, such indemnified person shall notify the Partnership thereof if a claim for indemnification in respect thereof may be or is being made by such indemnified person against the Partnership under this Article. With respect to any such action, suit or proceeding, the Partnership will be entitled to participate therein at its own expense and may assume the defense thereof. After the Partnership

notifies the indemnified person of its election to so assume the defense, the Partnership will not be liable to the indemnified person under this Article for any legal or other expenses subsequently incurred by the indemnified person in connection with the defense. The Partnership shall not be obligated to indemnify an indemnified person under this Article for any amounts paid in settlement of any action or claim effected without its written consent.

Section 7.5 The Partnership may purchase and maintain insurance to protect itself and any person against any liability asserted against and incurred by him or her in respect of such service, whether or not the Partnership would have the power to indemnify him or her against such liability by law or under the provisions of this Article. The provisions of this Article shall be applicable to persons who have ceased to be a person covered by this Article and shall inure to the benefit of the heirs, executors, and administrators of persons entitled to indemnity hereunder.

Section 7.6 Indemnification under this Article shall include the right to be paid expenses incurred in advance of the final disposition of any action, suit or proceeding for which indemnification is provided, upon receipt of an undertaking by or on behalf of the indemnified person to repay such amount if it ultimately shall be determined that he or she is not entitled to be indemnified by the Partnership; *provided, however*, that the indemnified person shall reimburse the Partnership for any amounts paid by the Partnership as indemnification of expenses to the extent the indemnified person receives payment for the same expenses from any insurance carrier or from another party. The indemnification rights granted herein are not intended to be exclusive of any other rights to which those seeking indemnification may be entitled and the Partnership may enter into contractual agreements with any individual to provide such individual with indemnification rights as set forth in such agreement or agreements, which rights shall be in addition to the rights set forth in this section.

Section 7.7 The provisions of this Article shall be applicable to actions, suits or proceedings commenced after the adoption hereof, whether arising from acts or omissions occurring before or after the adoption hereof.

Section 7.8 Any indemnification under this Article VII shall be satisfied solely out of the assets of the Partnership. In no event may an indemnified person subject the Partners to personal liability by reason of these indemnification provisions.

### **ARTICLE VIII DISSOLUTION AND LIQUIDATION**

The Partnership shall be dissolved, and its affairs shall be wound up, upon: (1) the election of the General Partner to do so; or (2) the entry of a decree of judicial dissolution of the Partnership. In winding up the affairs of the Partnership, the General Partner shall distribute the assets of the Partnership in the following order: (i) first, there shall be paid the liabilities of the Partnership; and (ii) second, to the Partners in accordance with their Percentage Interests.

**ARTICLE IX  
AMENDMENT OF PARTNERSHIP AGREEMENT**

The General Partner may amend any provision of this Agreement, other than Article III, without the consent of the Limited Partners and may execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection therewith.

**ARTICLE X  
GENERAL PROVISIONS**

Section 10.1 Addresses and Notices. Any notice to the Partnership shall be deemed given if received by it in writing at the principal office of the Partnership designated pursuant to Section 2.3. Any notice to a Partner shall be deemed given if received by it in writing at the address such Partner designates by notice to the Partnership.

Section 10.2 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

Section 10.3 Integration. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

Section 10.4 Invalidity of Provisions. If any provision or part of a provision of this Agreement is or becomes for any reason, invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions and part thereof contained herein shall not be affected thereby and this Agreement shall, to the fullest extent permitted by law, be reformed and construed as if such invalid, illegal or unenforceable provision, or part of a provision, had never been contained herein, and such provision or part reformed so that it would be valid, legal and enforceable to the maximum extent possible.

Section 10.5 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to the principles of conflicts of law.

Section 10.6 Waiver. A waiver of any breach of any of the terms of this Agreement shall be effective only if in writing and signed by the Partner against whom such waiver or breach is claimed. No waiver of any breach shall be deemed a waiver of any other subsequent breach.

Section 10.7 Further Assurances. Each Partner shall execute such deeds, assignments, endorsements and other instruments and documents and shall give such further assurances as shall be reasonably necessary to perform its obligations under this Agreement.

Section 10.8 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute an agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

*[Signature Page to Follow]*

IN WITNESS WHEREOF, this Agreement has been duly executed by the General Partner and the Limited Partners as of the date first above written.

**GENERAL PARTNER:**

FORUM US, INC.

By: /s/ James W. Harris

Name: James W. Harris

Title: President

**LIMITED PARTNERS:**

FORUM US, INC.

By: /s/ James W. Harris

Name: James W. Harris

Title: President

FET HOLDINGS LLC

By: /s/ James W. Harris

Name: James W. Harris

Title: President

*Signature page to Limited Partnership Agreement*

State of Delaware  
 Secretary of State  
 Division of Corporations  
 Delivered 02:55 PM 03/21/2006  
 FILED 02:55 PM 03/21/2006  
 SRV 060269701 - 4129244 FILE

**CERTIFICATE OF INCORPORATION**

**OF**

**FORUM INTERNATIONAL HOLDINGS, INC.**

FIRST: The name of the corporation is Forum International Holdings, Inc.

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

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the corporation shall have authority to issue is One Thousand (1,000) shares of Common Stock of the par value of one cent (\$0.01) per share.

FIFTH: The name of the incorporator is Alan R. Boswell and his mailing address is c/o Vinson & Elkins L.L.P., 2300 First City Tower, 1001 Fannin, Houston, Texas 77002-6720.

SIXTH: The name and mailing address of the sole director, who shall serve until the first annual meeting of stockholders or until his successor is elected and qualified, is as follows:

	<u>Name</u>	<u>Address</u>
	James R. Burke	One BriarLake Plaza, Suite 1175 2000 W. Sam Houston Parkway S Houston, Texas 77042

The number of directors of the corporation shall be as specified in, or determined in the manner provided in, the bylaws. Election of directors need not be by written ballot.

SEVENTH: In furtherance of, and not in limitation of, the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the corporation.

EIGHTH: Whenever a compromise or arrangement is proposed between the corporation and its creditors or any class of them and/or between the corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the corporation under the provisions of Section 279 of



Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the corporation, as the case may be, and also on the corporation.

NINTH: (a) No director of the corporation shall be liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

(b) Indemnification and Insurance.

(i) Right to Indemnification. (A) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, is or was a director or officer of the corporation, or serves at the request of the corporation, in any capacity, any corporation, partnership or other entity in which the corporation has a partnership or other interest, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators, and (B) the corporation shall indemnify and hold harmless in such manner any person designated by the Board of Directors, or any committee thereof, as a person subject to this indemnification provision, and who was or is made a party or is threatened to be made a party to a proceeding by reason of the fact that he, she or a person of whom he or she is the legal representative, is or was serving at the request of the Board of Directors of the corporation as a director, officer, employee or agent of another corporation or a partnership, joint venture, trust or

other enterprise whether such request is made before or after the acts taken or allegedly taken or events occurring or allegedly occurring which give rise to such proceeding; provided, however, that except as provided in subsection (b)(ii) of this Section, the corporation shall indemnify any such person seeking indemnification pursuant to this subsection in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred herein shall be a contract right based upon an offer from the corporation which shall be deemed to have been made to a person subject to subsection (b)(i)(A) on the date hereof and to a person subject to subsection (b)(i)(B) on the date designated by the Board of Directors, shall be deemed to be accepted by such person's service or continued service as a director or officer of the corporation for any period after the offer is made and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in his or her capacity as the director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The corporation may, by action of its Board of Directors, provide indemnification to employees or agents of the corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(ii) Right of Claimant to Bring Suit. If a claim under Section (b)(i) of this Article is not paid in full by the corporation within thirty days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(iii) Nonexclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section shall not be exclusive of any right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(iv) Insurance. The corporation may maintain insurance, at its expense, to protect itself and any director officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

(v) Severability. If any subsection of this Section (b) shall be deemed to be invalid or ineffective in any proceedings, the remaining subsections hereof shall not be affected and shall remain in full force and effect.

TENTH: The corporation shall have the right, subject to any express provisions or restrictions contained in the certificate of incorporation or bylaws of the corporation, from time to time, to amend the certificate of incorporation or any provision thereof in any manner now or hereafter provided by law, and all rights and powers of any kind conferred upon a director or stockholder of the corporation by the certificate of incorporation or any amendment thereof are subject to such right of the corporation.

I, the undersigned, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring that this is my act and deed and that the facts herein stated are true, and accordingly have hereunto set my hand this 21<sup>st</sup> day of March, 2006.

/s/ Alan R. Boswell

Alan R. Boswell, Incorporator

**STATE OF DELAWARE  
CERTIFICATE OF CHANGE  
OF REGISTERED AGENT AND/OR  
REGISTERED OFFICE**

The Board of Directors of Forum International Holdings, Inc., a Delaware Corporation, on this 24th day of October, A.D. 2011, do hereby resolve and order that the location of the Registered Office of this Corporation within this State be, and the same hereby is 160 Greentree Drive, Suite 101 Street, in the City of Dover, County of Kent Zip Code 19904.

The name of the Registered Agent therein and in charge thereof upon whom process against this Corporation may be served, is National Registered Agents, Inc..

The Corporation does hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Directors at a meeting held as herein stated.

**IN WITNESS WHEREOF**, said Corporation has caused this certificate to be signed by an authorized officer, the 24th day of October, A.D., 2011.

By: /s/ Victor Alfano  
Authorized Officer

Name: Victor Alfano  
Print or Type

Title: Vice President

**BYLAWS**  
**OF**  
**FORUM INTERNATIONAL HOLDINGS, INC.**

A Delaware Corporation

Date of Adoption:

March 21, 2006

FORUM INTERNATIONAL HOLDINGS, INC.

BYLAWS

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**BYLAWS**  
**OF**  
**FORUM INTERNATIONAL HOLDINGS, INC.**

**ARTICLE I**  
**OFFICES**

Section 1.01 Registered Office. The registered office of the Corporation required by the General Corporation Law of the State of Delaware to be maintained in the State of Delaware, shall be the registered office named in the original Certificate of Incorporation the Corporation, or such other office as may be designated from time to time by the Board of Directors in the manner provided by law. Should the Corporation maintain a principal office within the State of Delaware such registered office need not be identical to such principal office of the Corporation.

Section 1.02 Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

**ARTICLE II**  
**STOCKHOLDERS**

Section 2.01 Place of Meetings. All meetings of the stockholders shall be held at the principal office of the Corporation, or at such other place within or without the State of Delaware as shall be specified or fixed in the notices or waivers of notice thereof.

Section 2.02 Quorum; Adjournment of Meetings. Unless otherwise required by law or provided in the Certificate of Incorporation or these bylaws, the holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at any meeting of stockholders for the transaction of business and the act of a majority of such stock so represented at any meeting of stockholders at which a quorum is present shall constitute the act of the meeting of stockholders. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Notwithstanding the other provisions of the Certificate of Incorporation or these bylaws, the chairman of the meeting or the holders of a majority of the issued and outstanding stock, present in person or represented by proxy, at any meeting of stockholders, whether or not a quorum is present, shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such meeting. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally called.



Section 2.03 Annual Meetings. An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, within or without the State of Delaware, on such date, and at such time as the Board of Directors shall fix and set forth in the notice of the meeting, which date shall be within thirteen (13) months subsequent to the later of the date of incorporation or the last annual meeting of stockholders.

Section 2.04 Special Meetings. Unless otherwise provided in the Certificate of Incorporation, special meetings of the stockholders for any purpose or purposes may be called at any time by the President or by a majority of the Board of Directors, or by a majority of the executive committee (if any), and shall be called by the President or the Secretary upon the written request therefor, stating the purpose or purposes of the meeting, delivered to such officer, signed by the holder(s) of at least ten percent (10%) of the issued and outstanding stock entitled to vote at such meeting.

Section 2.05 Record Date. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders, or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors of the Corporation may fix, in advance, a date as the record date for any such determination of stockholders, which date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

If the Board of Directors does not fix a record date for any meeting of the stockholders, the record date for determining stockholders entitled to notice of or to vote at such meeting shall be at the close of business on the day next preceding the day on which notice is given, or, if in accordance with Article VIII, Section 3 of these bylaws notice is waived, at the close of business on the day next preceding the day on which the meeting is held. If, in accordance with Section 12 of this Article 11, corporate action without a meeting of stockholders is to be taken, the record date for determining stockholders entitled to express consent to such corporate action in writing, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed. The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 2.06 Notice of Meetings. Written notice of the place, date and hour of all meetings, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by or at the direction of the President, the Secretary or the other person(s) calling the meeting to each stockholder entitled to vote thereat not less than ten (10) nor more than sixty (60) days before the date of the meeting. Such notice may be delivered personally by mail or by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the Corporation.

Section 2.07 Stock List. A. complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in the name of such stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or if not so specified, at the place where the meeting is to be held. The stock list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 2.08 Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for him by proxy. Proxies for use at any meeting of stockholders shall be filed with the Secretary, or such other officer as the Board of Directors may from time to time determine by resolution, before or at the time of the meeting. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the secretary of the meeting who shall decide all questions touching upon the qualification of voters, the validity of the proxies, and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the chairman of the meeting, in which event such inspector or inspectors shall decide all such questions.

No proxy shall be valid after three (3) years from its date, unless the proxy provides for a longer period. Each proxy shall be revocable unless expressly provided therein to be irrevocable and coupled with an interest sufficient in law to support an irrevocable power.

Should a proxy designate two or more persons to act as proxies, unless such instrument shall provide the contrary, a majority of such persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, each proxy so attending shall be entitled to exercise such powers in respect of the same portion of the shares as he is of the proxies representing such shares.

Section 2.09 Voting; Elections; Inspectors. Unless otherwise required by law or provided in the Certificate of Incorporation, each stockholder shall have one vote for each share of stock entitled to vote which is registered in his name on the record date for the meeting. Shares registered in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaw (or comparable instrument) of such corporation may prescribe, or in the absence of such provision, as the Board of Directors (or comparable body) of such corporation may determine. Shares registered in the name of a deceased person may be voted by his executor or administrator, either in person or by proxy.

All voting, except as required by the Certificate of Incorporation or where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefor by stockholders holding a majority of the issued and outstanding stock present in person or by proxy at any meeting a stock vote shall be taken. Every stock vote shall be taken by written ballots, each of which shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. All elections of directors shall be by ballot, unless otherwise provided in the Certificate of Incorporation.

At any meeting at which a vote is taken by ballots, the chairman of the meeting may appoint one or more inspectors, each of whom shall subscribe an oath or affirmation to execute faithfully the duties of inspector at such meeting with strict impartiality and according to the best of his ability. Such inspector shall receive the ballots, count the votes and make and sign a certificate of the result thereof. The chairman of the meeting may appoint any person to serve as inspector, except no candidate for the office of director shall be appointed as an inspector.

Unless otherwise provided in the Certificate of Incorporation, cumulative voting for the election of directors shall be prohibited.

Section 2.10 Order of Business. At each meeting of the stockholders, one of the following persons, in the order in which they are listed (and in the absence of the first, the next, and so on), shall serve as chairman of the meeting: president, chairman of the board, vice presidents (in the order of their seniority if more than one), and secretary. The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to prescribe such rules, regulations, and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof, and the opening and closing of the voting polls.

Section 2.11 Treasury Stock. The Corporation shall not vote, directly or indirectly, shares of its own stock owned by it and such shares shall not be counted for quorum purposes.

Section 2.12 Action Without Meeting. Unless otherwise provided in the Certificate of Incorporation, any action permitted or required by law, the Certificate of Incorporation or these bylaws to be taken at a meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than a unanimous written consent shall be given by the Secretary to those stockholders who have not consented in writing.

**ARTICLE III  
BOARD OF DIRECTORS**

Section 3.01 Power; Number; Term of Office. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, and subject to the restrictions imposed by law or the Certificate of Incorporation, they may exercise all the powers of the Corporation.

The number of directors which shall constitute the whole Board of Directors, shall be determined from time to time by resolution of the Board of Directors (provided that no decrease in the number of directors which would have the effect of shortening the term of an incumbent director may be made by the Board of Directors). If the Board of Directors makes no such determination, the number of directors shall be the number set forth in the Certificate of Incorporation. Each director shall hold office for the term for which he is elected, and until his successor shall have been elected and qualified or until his earlier death, resignation or removal.

Unless otherwise provided in the Certificate of Incorporation, directors need not be stockholders nor residents of the State of Delaware.

Section 3.02 Quorum. Unless otherwise provided in the Certificate of Incorporation, a majority of the total number of directors shall constitute a quorum for the transaction of business of the Board of Directors and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.03 Place of Meetings; Order of Business. The directors may hold their meetings and may have an office and keep the books of the Corporation, except as otherwise provided by law, in such place or places, within or without the State of Delaware, as the Board of Directors may from time to time determine by resolution. At all meetings of the Board of Directors business shall be transacted in such order as shall from time to time be determined by the President, or by resolution of the Board of Directors.

Section 3.04 First Meeting. Each newly elected Board of Directors may hold its first meeting for the purpose of organization and the transaction of business, if a quorum is present, immediately after and at the same place as the annual meeting of the stockholders. Notice of such meeting shall not be required. At the first meeting of the Board of Directors in each year at which a quorum shall be present, held next after the annual meeting of stockholders, the Board of Directors shall proceed to the election of the officers of the Corporation.

Section 3.05 Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated from time to time by resolution of the Board of Directors. Notice of such regular meetings shall not be required.

Section 3.06 Special Meetings. Special meetings of the Board of Directors may be called by the President or, on the written request of any two directors, by the Secretary, in each case on at least twenty-four (24) hours personal, written, telegraphic, cable, telephonic or e-mail notice to each director. Such notice, or any waiver thereof pursuant to Article VIII, Section 3 hereof, need not state the purpose or purposes of such meeting, except as may otherwise be required by law or provided for in the Certificate of Incorporation or these bylaws.

Section 3.07 Removal. Any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided that, unless the Certificate of Incorporation otherwise provides, if the Board of Directors is classified then the stockholders may effect such removal only for cause; and provided further that, if the Certificate of Incorporation expressly grants to stockholders the right to cumulate votes for the election of directors and if less than the entire board is to be removed, no director may be removed without cause if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire Board of Directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part.

Section 3.08 Vacancies; Increases in the Number of Directors. Unless otherwise provided in the Certificate of Incorporation, vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or a sole remaining director; and any director so chosen shall hold office until the next annual election and until his successor shall be duly elected and shall qualify, unless sooner displaced.

If the directors of the Corporation are divided into classes, any directors elected to fill vacancies or newly created directorships shall hold office until the next election of the class for which such directors shall have been chosen, and until their successors shall be duly elected and shall qualify.

Section 3.09 Compensation. Unless otherwise restricted by the Certificate of Incorporation, the Board of Directors shall have the authority to fix the compensation of directors.

Section 3.10 Action Without a Meeting; Telephone Conference Meeting. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee designated by the Board of Directors, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State of Delaware.

Unless otherwise restricted by the Certificate of Incorporation, subject to the requirement for notice of meetings, members of the Board of Directors, or members of any committee designated by the Board of Directors, may participate in a meeting of such Board of Directors or committee, as the case may be, by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 3.11 Approval or Ratification of Acts or Contracts by Stockholders. The Board of Directors in its discretion may submit any act or contract for approval or ratification at any annual meeting of the stockholders, or at any special meeting of the stockholders called for the purpose of considering any such act or contract, and any act or contract that shall be approved or be ratified by the vote of the stockholders holding a majority of the issued and outstanding shares of stock of the Corporation entitled to vote and present in person or by proxy at such meeting (provided that a quorum is present), shall be as valid and as binding upon the Corporation and upon all the stockholders as if it has been approved or ratified by every stockholder of the Corporation. In addition, any such act or contract may be approved or ratified by the written consent of stockholders holding a majority of the issued and outstanding shares of capital stock of the Corporation entitled to vote and such consent shall be as valid and as binding upon the Corporation and upon all the stockholders as if it had been approved or ratified by every stockholder of the Corporation.

#### **ARTICLE IV COMMITTEES**

Section 4.01 Designation; Powers. The Board of Directors may, by resolution passed by a majority of the whole board, designate one or more committees, including, if they shall so determine, an executive committee, each such committee to consist of one or more of the directors of the Corporation. Any such designated committee shall have and may exercise such of the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation as may be provided in such resolution, except that no such committee shall have the power or authority of the Board of Directors in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution of the Corporation, or amending, altering or repealing the bylaws or adopting new bylaws for the Corporation and, unless such resolution or the Certificate of Incorporation expressly so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Any such designated committee may authorize the seal of the Corporation to be affixed to all papers which may require it. In addition to the above such committee or committees shall have such other powers and limitations of authority as may be determined from time to time by resolution adopted by the Board of Directors.

Section 4.02 Procedure; Meetings; Quorum. Any committee designated pursuant to Section 1 of this Article shall choose its own chairman, shall keep regular minutes of its proceedings and report the same to the Board of Directors when requested, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules, or by resolution of such committee or resolution of the Board of Directors. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any resolution.

Section 4.03 Substitution of Members. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

## **ARTICLE V OFFICERS**

Section 5.01 Number, Titles and Term of Office. The officers of the Corporation shall be a President, one or more Vice Presidents, a Treasurer, a Secretary and such other officers as the Board of Directors may from time to time elect or appoint. Each officer shall hold office until his successor shall be duly elected and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same person, unless the Certificate of Incorporation provides otherwise.

Section 5.02 Salaries. The salaries or other compensation of the officers and agents of the Corporation shall be fixed from time to time by the Board of Directors.

Section 5.03 Removal. Any officer or agent elected or appointed by the Board of Directors may be removed, either with or without cause, by the vote of a majority of the whole Board of Directors at a special meeting called for the purpose, or at any regular meeting of the Board of Directors, provided the notice for such meeting shall specify that the matter of any such proposed removal will be considered at the meeting but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5.04 Vacancies. Any vacancy occurring in any office of the Corporation may be filled by the Board of Directors.

Section 5.05 Powers and Duties of the President. Unless the Board of Directors otherwise determines, the President shall have the authority to agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Corporation; and, unless the Board of Directors otherwise determines, he shall preside at all meetings of the stockholders and (should he be a director) of the Board of Directors; and he shall have such other powers and duties as designated in accordance with these bylaws and as from time to time may be assigned to him by the Board of Directors.

Section 5.06 Vice Presidents. In the absence of the President, or in the event of his inability or refusal to act, a Vice President designated by the Board of Directors shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. In the absence of a designation by the Board of Directors of a Vice President to perform the duties of the President, or in the event of his absence or inability or refusal to act, the Vice President who is present and who is senior in terms of time as a Vice President of the Corporation shall so act. The Vice Presidents shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 5.07 Treasurer. The Treasurer shall have responsibility for the custody and control of all the funds and securities of the Corporation, and he shall have such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the Board of Directors. He shall perform all acts incident to the position of Treasurer, subject to the control of the President and the Board of Directors; and he shall, if required by the Board of Directors, give such bond for the faithful discharge of his duties in such form as the Board of Directors may require.

Section 5.08 Assistant Treasurers. Each Assistant Treasurer shall have the usual powers and duties pertaining to his office together with such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the President or the Board of Directors. The Assistant Treasurers shall exercise the powers of the Treasurer during that officer's absence or inability or refusal to act.

Section 5.09 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors committees of directors and the stockholders, in books provided for that purpose; he shall attend to the giving and serving of all notices; he may in the name of the Corporation affix the seal of the Corporation to all contracts of the Corporation and attest the affixation of the seal of the Corporation thereto; he may sign with the other appointed officers all certificates for shares of capital stock of the Corporation; he shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to inspection of any director upon application at the office of the Corporation during business hours; he shall have such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the Board of Directors; and he shall in general perform all acts incident to the office of Secretary, subject to the control of the President and the Board of Directors.

Section 5.10 Assistant Secretaries. Each Assistant Secretary shall have the usual powers and duties pertaining to his office, together with such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the President or the Board of Directors. The Assistant Secretaries shall exercise the powers of the Secretary during that officer's absence or inability or refusal to act.

Section 5.11 Action with Respect to Securities of Other Corporations. Unless otherwise directed by the Board of Directors, the president or any vice president shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of security holders of or with respect to any action of security holders of any other corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.



**ARTICLE VI  
INDEMNIFICATION OF DIRECTORS,  
OFFICERS, EMPLOYEES AND AGENTS**

Section 6.01 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative, is or was or has agreed to become a director or officer of the Corporation or is or was serving or has agreed to serve at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director or officer or in any other capacity while serving or having agreed to serve as a director or officer, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended, (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against all expense, liability and loss (including without limitation, attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such identification shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the Corporation. The right to indemnification conferred in this Article VI shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a current, former or proposed director or officer in his or her capacity as a director or officer or proposed director or officer (and not in any other capacity in which service was or is or has been agreed to be rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnified person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Section or otherwise.

Section 6.02 Indemnification of Employees and Agents. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation, individually or as a group, with the same scope and effect as the indemnification of directors and officers provided for in this Article.

Section 6.03 Right of Claimant to Bring Suit. If a written claim received by the Corporation from or on behalf of an indemnified party under this Article VI is not paid in full by the Corporation within ninety days after such receipt, claimant may at any time thereafter

Section 6.03 Right of Claimant to Bring Suit. If a written claim received by the Corporation from or on behalf of an indemnified party under this Article VI is not paid in full by the Corporation within ninety days after such receipt, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the Corporation to indemnify the claimant for the amount of claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 6.04 Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any law (common or statutory), provision of the Certificate of Incorporation of the Corporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 6.05 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any person who is or was serving as a director, officer, employee or agent of the corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6.06 Savings Clause. If this Article VI or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each director and officer of the Corporation, as to costs, charges and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article VI that shall not have been invalidated and to the fullest extent permitted by applicable law.

Section 6.07 Definitions. For purposes of this Article, reference to the "Corporation" shall include, in addition to the Corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger prior to (or, in the case of an entity specifically designated in a resolution of the Board of Directors, after) the adoption hereof and which, if its separate existence had continued, would have had the power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

**ARTICLE VII  
CAPITAL STOCK**

Section 7.01 Certificates of Stock. The certificates for shares of the capital stock of the Corporation shall be in such form, not inconsistent with that required by law and the Certificate of Incorporation, as shall be approved by the Board of Directors. The President or a Vice President shall cause to be issued to each stockholder one or more certificates, under the seal of the Corporation or a facsimile thereof if the Board of Directors shall have provided for such seal, and signed by the President or a Vice President and the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer certifying the number of shares (and, if the stock of the Corporation shall be divided into classes or series, the class and series of such shares) owned by such stockholder in the Corporation; provided, however, that any of or all the signatures on the certificate may be facsimile. The stock record books and the blank stock certificate books shall be kept by the Secretary, or at the office of such transfer agent or transfer agents as the Board of Directors may (from time to time by resolution determine. In case any officer, transfer agents or registrar who signed or whose facsimile signature or signatures shall have been placed upon any such certificate or certificates shall have ceased to be such officer, transfer agent or registrar before such certificate is issued by the Corporation, such certificate may nevertheless be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The stock certificates shall be consecutively numbered and shall be entered in the books of the Corporation as they are issued and shall exhibit the holder's name and number of shares.

Section 7.02 Transfer of Shares. The shares of stock of the Corporation shall be transferable only on the books of the Corporation by the holders thereof in person or by their duly authorized attorneys or legal representatives upon surrender and cancellation of certificates for a like number of shares. Upon surrender to the Corporation or a transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

Section 7.03 Ownership of Shares. The Corporation shall be entitled to treat the holder of record of any share or shares of capital stock of the Corporation as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

Section 7.04 Regulations Regarding Certificates. The Board of Directors shall have the power and authority to make all such rules and regulations as they may deem expedient concerning the issue, transfer and registration or the replacement of certificates for shares of capital stock of the Corporation.

Section 7.05 Lost or Destroyed Certificates. The Board of Directors may determine the conditions upon which a new certificate of stock may be issued in place of a certificate which is alleged to have been lost, stolen or destroyed; and may, in their discretion, require the owner of such certificate or his legal representative to give bond, with sufficient surety, to indemnify the Corporation and each transfer agent and registrar against any and all losses or claims which may arise by reason of the issue of a new certificate in the place of the one so lost, stolen or destroyed.

## **ARTICLE VIII MISCELLANEOUS PROVISIONS**

Section 8.01 Fiscal Year. The fiscal year of the Corporation shall be such as established from time to time by the Board of Directors.

Section 8.02 Notice and Waiver of Notice. Whenever any notice is required to be given by law, the Certificate of Incorporation or under the provisions of these bylaws, said notice shall be deemed to be sufficient if given (i) by telegraphic, cable or wireless transmission or (ii) by deposit of the same in a post office box in a sealed prepaid wrapper addressed to the person entitled thereto at his post office address, as it appears on the records of the Corporation, and such notice shall be deemed to have been given on the day of such transmission or mailing, as the case may be.

Whenever notice is required to be given by law, the Certificate of Incorporation or under any by of the provisions of these bylaws, a written waiver thereof, signed by the person entitled to notice or waiver by electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or the bylaws.

Section 8.03 Resignations. Any director, member of a committee or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 8.04 Facsimile Signatures. In addition to the provisions for the use of facsimile signatures elsewhere specifically authorized in these bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors.

Section 8.05 Reliance upon Books, Reports and Records. Each director and each member of any committee designated by the Board of Directors shall, in the performance of his duties, be fully protected in relying good faith upon the books of account or reports made to the Corporation by any of its officers, or by an independent certified public accountant, or by an appraiser selected with reasonable care by the Board of Directors or by any such committee, or in relying in good faith upon other records of the Corporation.

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**ARTICLE IX  
AMENDMENTS**

If provided in the Certificate of Incorporation of the Corporation, the Board of Directors shall have the power to adopt, amend and repeal from time to time bylaws or the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to amend or repeal such bylaws as adopted or amended by the Board of Directors.

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 12:48 PM 11/14/2008  
FILED 12:46 PM 11/14/2008  
SRV 081117325 – 4623178 FILE

**CERTIFICATE OF INCORPORATION**

**OF**

**FORUM OILFIELD TECHNOLOGIES US, INC.**

ARTICLE I

The name of the corporation is Forum Oilfield Technologies US, Inc.

ARTICLE II

The address of the initial registered office of the corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, New Castle County, Wilmington, DE 19801. The name of the initial registered agent of the corporation at such address is The Corporation Trust Company.

ARTICLE III

The purpose for which the corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

The aggregate number of shares which the corporation shall have the authority to issue is 1,000 shares of common stock of the par value of \$.01 per share.

ARTICLE V

The Board of Directors of the corporation is expressly authorized and empowered to make, alter or repeal Bylaws, subject to the power of the stockholders to alter or repeal the Bylaws made by the Board of Directors.

ARTICLE VI

(a) Elimination of Certain Liability of Directors. To the fullest extent permitted by the Delaware General Corporation Law as the same exists or may hereafter be amended, a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of duty as a director. Without limiting the foregoing in any respect, a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General

Corporation Law, as so amended. Any repeal or modification of this provision shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

(b) Indemnification and Insurance.

(i) Right to Indemnification. (A) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, is or was a director or officer of the corporation, or serves at the request of the corporation, in any capacity, any corporation, partnership or other entity in which the corporation has a partnership or other interest, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators, and (B) the corporation shall indemnify and hold harmless in such manner any person designated by the Board of Directors, or any committee thereof, as a person subject to this indemnification provision, and who was or is made a party or is threatened to be made a party to a proceeding by reason of the fact that he, she or a person of whom he or she is the legal representative, is or was serving at the request of the Board of Directors of the corporation as a director, officer, employee or agent of another corporation or a partnership, joint venture, trust or other enterprise whether such request is made before or after the acts taken or allegedly taken or events occurring or allegedly occurring which give rise to such proceeding; *provided, however*, that except as provided in subsection (b)(ii) of this Section, the corporation shall indemnify any such person seeking indemnification pursuant to this subsection in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred herein shall be a contract right based upon an offer from the corporation which shall be deemed to have been made to a person subject to subsection (b)(i)(A) on the date hereof and to a person subject to subsection (b)(i)(B) on the date designated by the Board of Directors, shall be deemed to be accepted by such person's service or continued service as a director or officer of the corporation for any period after the offer is made and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; *provided, however*, that if the

Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in his or her capacity as the director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The corporation may, by action of its Board of Directors, provide indemnification to employees or agents of the corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(ii) Right of Claimant to Bring Suit. If a claim under Section (b)(i) of this Article is not paid in full by the corporation within thirty days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(iii) Nonexclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section shall not be exclusive of any right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(iv) Insurance. The corporation may maintain insurance, at its expense, to protect itself and any director officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.



(v) Severability. If any subsection of this Section (b) shall be deemed to be invalid or ineffective in any proceedings, the remaining subsections hereof shall not be affected and shall remain in full force and effect.

#### ARTICLE VII

The names and mailing addresses of the persons who are to serve as directors until the first annual meeting of stockholders or until their respective successor or successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Mailing Address</u>
Charles E. Jones	One BriarLake Plaza, Suite 1175 2000 West Sam Houston Parkway South Houston, TX 77042
James W. Harris	One BriarLake Plaza, Suite 1175 2000 West Sam Houston Parkway South Houston, TX 77042

#### ARTICLE VIII

Whenever a compromise or arrangement is proposed between the corporation and its creditors or any class of them and/or between the corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the corporation or any of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or stockholders or class of stockholders of the corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the corporation, as the case may be, and also on the corporation.

#### ARTICLE IX

The name of the incorporator is Mark Hughes and his mailing address is Hughes Arrell Kinchen, LLP, 2211 Norfolk, Suite 405, Houston, Texas 77098.

THE UNDERSIGNED, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, does make this Certificate, hereby declaring and certifying that this is his act and deed and that the facts herein stated are true, and accordingly has hereunto set his hand as of the 14th day of November, 2008.

/s/ Mark Hughes

Mark Hughes

STATE OF DELAWARE  
CERTIFICATE OF AMENDMENT  
OF CERTIFICATE OF INCORPORATION

The corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware does hereby certify:

**FIRST:** That at a meeting of the Board of Directors of Forum Oilfield Technologies US, Inc., resolutions were duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

**RESOLVED**, that the Certificate of Incorporation of this corporation be amended by changing the Article thereof numbered "First" so that, as amended, said Article shall be and read as follows:

The name of this Corporation is Forum US, Inc.

**SECOND:** That thereafter, pursuant to resolution of its Board of Directors, a special meeting of the stockholders of said corporation was duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.

**THIRD:** That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

**IN WITNESS WHEREOF**, said corporation has caused this certificate to be signed this 17th day of June, 2011.

By: /s/ Denise Torgesen

Denise Torgesen

Title: Authorized Officer

Name: Assistant Treasurer

Print or Type

**BYLAWS**  
**OF**  
**FORUM OILFIELD TECHNOLOGIES US, INC.**

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**BYLAWS**  
**OF**  
**FORUM OILFIELD TECHNOLOGIES US, INC.**

ARTICLE I

OFFICES

Section 1. *Registered Office.* The registered office of Forum Oilfield Technologies US, Inc., a Delaware corporation (hereinafter called the "Corporation"), in the State of Delaware shall be at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801 and the registered agent in charge thereof shall be The Corporation Trust Company.

Section 2. *Other Offices.* The Corporation may also have an office or offices, and keep the books and records of the Corporation, except as may otherwise be required by law, at such other place or places, either within or without the State of Delaware, as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. *Place of Meeting.* All meetings of the stockholders of the Corporation shall be held at the office of the Corporation or at such other places, within or without the State of Delaware, or, if so determined by the Board in its sole discretion, at no place (but rather by means of remote communication) as may from time to time be fixed by the Board of Directors, the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President).

Section 2. *Annual Meetings.* Annual meetings of the stockholders of the Corporation for the election of directors and for the transaction of such other business as may properly come before such meetings shall be held during each calendar year on a date and at such hour as may be fixed by the Board of Directors, the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President). Failure to designate a time for the annual meeting or to hold the annual meeting at the designated time shall not work a dissolution of the Corporation.

In order for business to be properly brought before the meeting by a stockholder, the business must be legally proper and written notice thereof must have been filed with the Secretary of the Corporation not less than 60 nor more than 120 days prior to the meeting. Each such notice shall set forth: (a) the name and address of the stockholder who intends to make the proposal as the same

appears in the Corporation's records; (b) the class and number of shares of stock of the Corporation that are beneficially owned, directly or indirectly, by such stockholder; and (c) a clear and concise statement of the proposal and the stockholder's reasons for supporting it.

The filing of a stockholder notice as required above shall not, in and of itself, constitute the making of the proposal described therein.

If the chairman of the meeting determines that any proposed business has not been properly brought before the meeting, he shall declare such business out of order; and such business shall not be conducted at the meeting.

Section 3. *Special Meetings.* Except as otherwise required by law and subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, special meetings of the stockholders for any purpose or purposes may be called only by a majority of the entire Board of Directors. Only such business as is specified in the notice of any special meeting of the stockholders shall come before such meeting.

Section 4. *Notice of Meetings.* Except as otherwise provided by law, notice of each meeting of the stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder of record entitled to notice of the meeting. If mailed, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Each such notice shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting and the purpose or purposes for which the meeting is called. Notice of any meeting of stockholders shall not be required to be given to any stockholder who shall attend such meeting in person or by proxy without protesting, prior to or at the commencement of the meeting, the lack of proper notice to such stockholder, or who shall waive notice thereof as provided in Article X of these Bylaws. Notice of adjournment of a meeting of stockholders need not be given if the time and place to which it is adjourned are announced at such meeting, unless the adjournment is for more than 30 days or, after adjournment, a new record date is fixed for the adjourned meeting. Notice to stockholders may be given by a form of electronic transmission if consented to by the stockholders to whom the notice is given.

Section 5. *Quorum.* Except as otherwise provided by law or by the Certificate of Incorporation of the Corporation, the holders of a majority of the votes entitled to be cast by the stockholders entitled to vote, which if any vote is to be taken by classes shall mean the holders of a majority of the votes entitled to be cast by the stockholders of each such class, present in person or represented by proxy, shall constitute a quorum for the transaction of business at any meeting of the stockholders.

Section 6. *Adjournments.* Any meeting of stockholders, annual or special, maybe adjourned solely by the chair of the meeting from time to time to reconvene at the same or some other time, date and place. The stockholders present at a meeting shall not have authority to adjourn the meeting. Notice need not be given of any such adjourned meeting if the time, date and place, if



any, thereof and the means of remote communications, if any, by which the stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. If the time, date and place of the adjourned meeting are not announced at the meeting at which the adjournment is taken, if the adjournment is for more than 30 days or if after the adjournment a new record date is fixed for the adjourned meeting, then the Secretary shall give notice of the adjourned meeting as provided in Article II, Section 4, not less than ten (10) days prior to the date of the adjourned meeting.

Section 7. *Order of Business.* At each meeting of the stockholders, the Chairman of the Board, or, in the absence of the Chairman of the Board, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), shall act as chairman. The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof, and the opening and closing of the voting polls. The chairman of the meeting shall announce at each such meeting the date and time of the opening and the closing of the voting polls for each matter upon which the stockholders will vote at such meeting.

Section 8. *List of Stockholders.* It shall be the duty of the Secretary or other officer of the Corporation who has charge of the stock ledger to prepare and make, at least 10 days before each meeting of the stockholders, a complete list of the stockholders entitled to vote thereat, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in such stockholder's name. Such list shall be produced and kept available at the times and places required by law. If the meeting is to be held at a place, such list shall be produced and kept open at the time and place of the meeting during the whole time thereof, and shall be subject to the inspection of any stockholder who may be present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Section 9. *Voting.* Except as otherwise provided by law or by the Certificate of Incorporation of the Corporation, each stockholder of record of any class or series of stock having a preference over the Common Stock of the Corporation as to dividends or upon liquidation shall be entitled at each meeting of stockholders to such number of votes for each share of such stock as may be fixed in the Certificate of Incorporation or in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such stock, and each stockholder of record of Common Stock shall be entitled at each meeting of stockholders to one vote for each share of such stock, in each case, registered in such stockholder's name on the books of the Corporation:

(a) on the date fixed pursuant to Section 6 of Article VII of these Bylaws as the record date for the determination of stockholders entitled to notice of and to vote at such meeting; or

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

Each stockholder entitled to vote at any meeting of stockholders may authorize not in excess of three persons to act for such stockholder by a proxy signed by such stockholder or such stockholder's attorney-in-fact. Any such proxy shall be delivered to the secretary of such meeting at or prior to the time designated for holding such meeting but, in any event, not later than the time designated in the order of business for so delivering such proxies. No such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

At each meeting of the stockholders, all corporate actions to be taken by vote of the stockholders (except as otherwise required by law and except as otherwise provided in the Certificate of Incorporation) shall be authorized by a majority of the votes cast by the stockholders entitled to vote thereon, present in person or represented by proxy. Where a separate vote by a class or classes is required, the affirmative vote of the majority of shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class.

Unless required by law or determined by the chairman of the meeting to be advisable, the vote on any matter, including the election of directors, need not be by written ballot. In the case of a vote by written ballot, each ballot shall be signed by the stockholder voting, or by such stockholder's proxy, and shall state the number of shares voted.

Section 10. *Inspectors of Election.* Either the Board of Directors or, in the absence of an appointment of inspectors by the Board, the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) shall, in advance of each meeting of the stockholders, appoint one or more inspectors to act at such meeting and make a written report thereof. In connection with any such appointment, one or more persons may, in the discretion of the body or person making such appointment, be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at any meeting of stockholders, the chairman of such meeting shall appoint one or more inspectors to act at such meeting. Each such inspector shall perform such duties as are required by law and as shall be specified by the Board, the Chairman of the Board, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or the chairman of the meeting. Each such inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability. Inspectors need not be stockholders. No director or nominee for the office of director shall be appointed such an inspector.

Section 11. *Postponement and Cancellation of Meeting.* Any previously scheduled annual or special meeting of the stockholders maybe postponed, and any previously scheduled annual or special meeting of the stockholders called by the Board may be canceled, by resolution of the Board upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 12. *Action Without Meeting.* Any action required or permitted to be taken at any meeting of the stockholders may be taken without a meeting if a consent thereto in writing or by electronic transmission is signed by the holders of the outstanding stock not having less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with applicable law.

### ARTICLE III

#### BOARD OF DIRECTORS

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

Section 2. *Number, Qualification and Election.* The number of directors of the Corporation shall be fixed from time to time by resolution adopted by vote of a majority of the entire Board of Directors or the stockholders, provided that the number so fixed shall not be less than one nor more than fifteen.

The directors, other than those who may be elected by the holders of shares of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation pursuant to the terms of any resolution or resolutions providing for the issuance of such stock adopted by the Board, shall hold office until his successor is elected and qualified or until his earlier resignation or removal.

Each director shall be at least 21 years of age. Directors need not be stockholders of the Corporation.

Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, at each annual meeting of the stockholders, all directors of the Corporation shall be elected.

In any election of directors, the persons receiving a plurality of the votes cast, up to the number of directors to be elected in such election, shall be deemed elected.

Section 3. *Notification of Nominations.* Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, nominations for the election of directors may be made by the Board of Directors or by any stockholder entitled to vote for the election of directors. Any stockholder entitled to vote for the election of directors at a meeting may nominate persons for election as directors only if written notice of such stockholder's intent to make such nomination is given, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Corporation not later than (i) with respect to an election to be held at an annual meeting of stockholders, 90 days in advance of such

meeting, and (ii) with respect to an election to be held at a special meeting of stockholders for the election of directors, the close of business on the seventh day following the date on which notice of such meeting is first given to stockholders. Each such notice shall set forth: (a) the name and address of the stockholder who intends to make the nomination of the person or persons to be nominated; (b) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (c) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (d) such other information regarding each nominee proposed by such stockholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission had each nominee been nominated, or intended to be nominated, by the Board of Directors; and (e) the consent of each nominee to serve as a director of the Corporation if so elected. The chairman of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure.

Section 4. *Quorum and Manner of Acting.* Except as otherwise provided by law, the Certificate of Incorporation of the Corporation or these Bylaws, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, and, except as so provided, the vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board. In the absence of a quorum, a majority of the directors present may adjourn the meeting to another time and place. At any adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting as originally called may be transacted.

Section 5. *Place of Meeting.* The Board of Directors may hold its meetings at such place or places within or without the State of Delaware as the Board may from time to time determine or as shall be specified or fixed in the respective notices or waivers of notice thereof.

Section 6. *Regular Meetings.* Regular meetings of the Board of Directors shall be held at such times and places as the Board shall from time to time by resolution determine. If any day fixed for a regular meeting shall be a legal holiday under the laws of the place where the meeting is to be held, the meeting that would otherwise be held on that day shall be held at the same hour on the next succeeding business day.

Section 7. *Special Meetings.* Special meetings of the Board of Directors shall be held whenever called by the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or by a majority of the directors.

Section 8. *Notice of Meetings.* Notice of regular meetings of the Board of Directors or of any adjourned meeting thereof need not be given. Notice of each special meeting of the Board shall be mailed or transmitted by delivery service to each director, addressed to such director at such director's residence or usual place of business, at least two days before the day on which the meeting is to be held or shall be sent to such director at such place by telegraph or facsimile

telecommunication or be given personally or by telephone or by other means of electronic transmission, not later than the day before the meeting is to be held, but notice need not be given to any director who shall, either before or after the meeting, submit a signed waiver of such notice or who shall attend such meeting without protesting, prior to or at its commencement, the lack of notice to such director. Every such notice shall state the time and place but need not state the purpose of the meeting. Notice to directors may be given by telegram, telecopier, telephone, or other means of electronic transmission.

Section 9. *Rules and Regulations.* The Board of Directors may adopt such rules and regulations not inconsistent with the provisions of law, the Certificate of Incorporation of the Corporation or these Bylaws for the conduct of its meetings and management of the affairs of the Corporation as the Board may deem proper.

Section 10. *Participation in Meeting by Means of Communication Equipment.* Any one or more members of the Board of Directors or any committee thereof may participate in any meeting of the Board or of any such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 11. *Action Without Meeting.* Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if all of the members of the Board or of any such committee consent thereto in writing or by electronic transmission, as the case may be, and the writing or electronic transmission is filed with the minutes of proceedings of the Board or of such committee.

Section 12. *Resignations.* Any director of the Corporation may at any time resign by giving written notice to the Board of Directors, the Chairman of the Board, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein or, if the time be not specified, upon receipt thereof; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 13. *Removal of Directors.* Any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided, that if a director was elected by the holders of a particular class or series of stock, only the holders of that class or series shall be entitled to remove such director.

Section 14. *Vacancies.* Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, any vacancies on the Board of Directors and any newly created directorship resulting from an increase in the authorized number of directors, may be filled by election at an annual or special meeting of stockholders called for that purpose or by the affirmative vote of a majority of the remaining directors, though less than a quorum of the entire Board, and the directors so chosen shall hold office until the next annual meeting of stockholders and until their successors are duly elected and shall qualify, unless sooner displaced.

Section 15. *Compensation.* Each director who shall not at the time also be a salaried officer or employee of the Corporation or any of its subsidiaries (hereinafter referred to as an “outside director”), in consideration of such person serving as a director, shall be entitled to receive from the Corporation such amount per annum and such fees for attendance at meetings of the Board of Directors or of committees of the Board, or both, as the Board shall from time to time determine. In addition, each director, whether or not an outside director, shall be entitled to receive from the Corporation reimbursement for the reasonable expenses incurred by such person in connection with the performance of such person’s duties as a director. Nothing contained in this Section 15 shall preclude any director from serving the Corporation or any of its subsidiaries in any other capacity and receiving proper compensation therefor.

Section 16. *Advisory Directors.* The Board of Directors may appoint one or more advisory directors as it shall from time to time determine. Each advisory director appointed shall hold office at the pleasure of the Board of Directors. An advisory director shall be entitled, but shall have no obligation, to attend and be present at the meetings of the Board of Directors, although a meeting of the Board of Directors may be held without notice to any advisory director and no advisory director shall be considered in determining whether a quorum of the Board of Directors is present. An advisory director shall advise and counsel the Board of Directors on the business and operations of the Corporation as requested by the Board of Directors; however, an advisory director shall not be entitled to vote on any matter presented to the Board of Directors. An advisory director, in consideration of such person serving as an advisory director, shall be entitled to receive from the Corporation such fees for attendance at meetings of the Board of Directors as the Board shall from time to time determine. In addition, an advisory director shall be entitled to receive from the Corporation reimbursement for the reasonable expenses incurred by such person in connection with the performance of such person’s duties as an advisory director.

#### ARTICLE IV

##### EXECUTIVE AND OTHER COMMITTEES

Section 1. *Executive Committee.* The Board of Directors may, by resolution adopted by a majority of the entire Board, designate annually three or more of its members to constitute members or alternate members of an Executive Committee, which Committee shall have and may exercise, between meetings of the Board, all the powers and authority of the Board in the management of the business affairs of the Corporation, including, if such Committee is so empowered and authorized by resolution adopted by a majority of the entire Board, the power and authority to declare a dividend and to authorize the issuance of stock, and may authorize the seal of the Corporation to be affixed to all papers that may require it, except that the Executive Committee shall not have such power or authority in reference to:

- (a) amending the Certificate of Incorporation of the Corporation;
- (b) adopting an agreement of merger or consolidation involving the Corporation;

- (c) recommending to the stockholders the sale, lease or exchange of all or substantially all of the property and assets of the Corporation;
- (d) recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution;
- (e) adopting, amending or repealing any Bylaw;
- (f) filling vacancies on the Board or on any committee of the Board, including the Executive Committee; or
- (g) amending or repealing any resolution of the Board which by its terms may be amended or repealed only by the Board.

The Board shall have power at any time to change the membership of the Executive Committee, to fill all vacancies in it and to discharge it, either with or without cause.

Section 2. *Other Committees.* The Board of Directors may, by resolution adopted by a majority of the entire Board, designate from among its members one or more other committees, each of which shall, except as otherwise prescribed by law, have such authority of the Board as may be specified in the resolution of the Board designating such committee. A majority of all the members of such committee may determine its action and fix the time and place of its meetings, unless the Board shall otherwise provide. The Board shall have power at anytime to change the membership of, to fill all vacancies in and to discharge any such committee, either with or without cause.

Section 3. *Procedure; Meetings; Quorum.* Regular meetings of the Executive Committee or any other committee of the Board of Directors, of which no notice shall be necessary, may be held at such times and places as shall be fixed by resolution adopted by a majority of the members thereof. Special meetings of the Executive Committee or any other committee of the Board shall be called at the request of any member thereof. Notice of each special meeting of the Executive Committee or any other committee of the Board shall be sent by mail, delivery service, facsimile telecommunication, telegraph or telephone, or be delivered personally to each member thereof not later than the day before the day on which the meeting is to be held, but notice need not be given to any member who shall, either before or after the meeting, submit a signed waiver of such notice or who shall attend such meeting without protesting, prior to or at its commencement, the lack of such notice to such member. Any special meeting of the Executive Committee or any other committee of the Board shall be a legal meeting without any notice thereof having been given, if all the members thereof shall be present thereat. Notice of any adjourned meeting of any committee of the Board need not be given. The Executive Committee or any other committee of the Board may adopt such rules and regulations not inconsistent with the provisions of law, the Certificate of Incorporation of the Corporation or these Bylaws for the conduct of its meetings as the Executive Committee or any other committee of the Board may deem proper. A majority of the Executive Committee or any other committee of the Board shall constitute a quorum for the transaction of business at any meeting, and the vote of a majority of the members thereof present at any meeting at which a quorum

is present shall be the act of such committee. The Executive Committee or any other committee of the Board of Directors shall keep written minutes of its proceedings and shall report on such proceedings to the Board.

## ARTICLE V

### OFFICERS

Section 1. *Number; Term of Office.* The officers of the Corporation shall be elected by the Board of Directors, and shall consist of a President and a Secretary. The Board of Directors, in its discretion, may also elect a Chairman of the Board (who must be a director) and a Vice Chairman of the Board (who must be a director), a Chief Executive Officer, one or more Vice Presidents, a Treasurer and such other officers as the Board of Directors may designate, all of whom shall hold office until their successors are elected and qualified. Any two or more offices may be held by the same person. The Board of Directors may designate which of such officers are to be treated as executive officers for purposes of these Bylaws or for any other purpose.

Section 2. *Removal.* Any officer may be removed, either with or without cause, by the Board of Directors at any meeting thereof called for that purpose, or, except in the case of any officer elected by the Board, by any committee or superior officer upon whom such power may be conferred by the Board.

Section 3. *Resignation.* Any officer may resign at any time by giving notice to the Board of Directors, the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or the Secretary of the Corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. *Vacancies.* A vacancy in any office because of death, resignation, removal or any other cause may be filled for the unexpired portion of the term in the manner prescribed in these Bylaws for election to such office.

Section 5. *The Chief Executive Officer.* The Chief Executive Officer, if one is elected by the Board of Directors, shall be the chief executive officer of the Corporation and as such shall have general supervision and direction of the business and affairs of the Corporation, subject to the control of the Board of Directors. The Chief Executive Officer shall, if present and in the absence of the Chairman of the Board, preside at meetings of the stockholders, meetings of the Board and meetings of the Executive Committee. The Chief Executive Officer shall perform such other duties as the Board may from time to time determine. The Chief Executive Officer may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments authorized by the Board or any committee thereof empowered to authorize the same.



Section 6. *The President.* The President shall be the chief executive officer of the Corporation and as such shall have general supervision and direction of the business and affairs of the Corporation, subject to the control of the Board of Directors. The President shall, if present and in the absence of the Chairman of the Board, preside at meetings of the stockholders, meetings of the Board and meetings of the Executive Committee. The President shall perform such other duties as the Board may from time to time determine. The President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments authorized by the Board or any committee thereof empowered to authorize the same.

Section 7. *Chairman of the Board.* The Chairman of the Board shall, if present, preside at meetings of the stockholders, meetings of the Board and meetings of the Executive Committee. The Chairman of the Board shall counsel with and advise the President and perform such other duties as the Board or the Executive Committee may from time to time determine.

Section 8. *Vice Chairman.* The Vice Chairman of the Board, if there is one, shall advise and counsel the Chairman of the Board. The Vice Chairman of the Board shall assist the Chairman in developing policies, strategies, and an organization that will ensure that full advantage is taken of the long-range potential of the business. Further, the Vice Chairman of the Board shall exercise such powers and perform such duties as shall be assigned to or required of the Vice Chairman of the Board from time to time by the Board of Directors or the Executive Committee.

Section 9. *Vice Presidents.* Each Vice President shall have such powers and duties as shall be prescribed by the President (unless there is a Chief Executive Officer, in which case the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors. Any Vice President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments authorized by the Board or any committee thereof empowered to authorize the same.

Section 10. *Treasurer.* The Treasurer shall perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 11. *Secretary.* It shall be the duty of the Secretary to act as secretary at all meetings of the Board of Directors, of the Executive Committee and of the stockholders and to record the proceedings of such meetings in a book or books to be kept for that purpose; the Secretary shall see that all notices required to be given by the Corporation are duly given and served; the Secretary shall be custodian of the seal of the Corporation and shall affix the seal or cause it to be affixed to all certificates of stock of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws. The Secretary shall have charge of the stock ledger and also of the other books, records and papers of the Corporation and shall see that the reports, statements and other documents required by law are properly kept and filed; and the Secretary shall in general perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to such person by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 12. *Controller.* The Controller shall perform all of the duties incident to the office of the Controller and such other duties as from time to time may be assigned to such person by the President unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 13. *Assistant Treasurers, Secretaries and Controllers.* The Assistant Treasurers, the Assistant Secretaries and the Assistant Controllers shall perform such duties as shall be assigned to them by the Treasurer, Secretary or Controller, respectively, or by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President), the Chairman of the Board or the Board of Directors.

Section 14. *Other Officers.* Other officers appointed by the Board of Directors, including but not limited to a Chief Operating Officer, a Chief Financial Officer or a Chief Technology Officer, shall perform the duties incident to their respective offices and such other duties as from time to time may be assigned to such person by the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President.), the Chairman of the Board or the Board of Directors.

## ARTICLE VI

### INDEMNIFICATION

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

Section 2. *Derivative Actions.* The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the

request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of Delaware or such other court shall deem proper.

Section 3. *Determination of Indemnification.* Any indemnification under Section 1 or 2 of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 1 or 2 of this Article VI. Such determination shall be made (i) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (iii) by the stockholders.

Section 4. *Right to Indemnification.* Notwithstanding the other provisions of this Article VI, to the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or 2 of this Article VI, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Section 5. *Advancement of Expenses.* The Corporation shall pay the expenses (including attorneys' fees) incurred in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding, provided, however, that the payment of expenses incurred by a director, officer, employee or agent in advance of the final disposition of the action, suit or proceeding shall be made only upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay all amounts advanced if it should be ultimately determined that such person is not entitled to be indemnified under this Article VI or otherwise.

Section 6. *Indemnification and Advancement of Expenses Not Exclusive.* The indemnification and advancement of expenses provided by, or granted pursuant to the other Sections of this Article VI shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. All rights to indemnification under this Article VI shall be deemed to be provided by a contract between the Corporation and the director, officer, employee or agent who served in such capacity at any time while these Bylaws and other relevant provisions of the Delaware General Corporation Law and other applicable law, if any, are in effect. Any repeal or modification thereof shall not affect any rights or obligations then existing.

Section 7. *Insurance.* 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 is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against 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 the power to indemnify such person against such liability under the applicable provisions of the Delaware General Corporation Law.

Section 8. *Definitions of Certain Terms.* For purposes of this Article VI, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

For purposes of this Article VI, references to "other enterprise" shall include employee benefit plans; references to "fines" shall include any excise tax assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation that imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article VI.

Section 9. *Continuation and Successors.* The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VI shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 10. *Exclusive Jurisdiction.* The Delaware Court of Chancery is vested with exclusive jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this Article VI or under any statute, agreement, vote of stockholders or disinterested directors, or otherwise. The Delaware Court of Chancery may summarily determine the Corporation's obligation to advance expenses (including attorneys' fees).

## ARTICLE VII

### CAPITAL STOCK

Section 1. *Certificates for Shares.* Certificates representing shares of stock of each class of the Corporation, whenever authorized by the Board of Directors, shall be in such form as shall be approved by the Board. The certificates representing shares of stock of each class shall be signed by, or in the name of, the Corporation by the Chairman of the Board or the President (unless there is a Chief Executive Officer, in which case, the Chief Executive Officer shall take the place of the President) or a Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer of the Corporation, and sealed with the seal of the Corporation, which may be by a facsimile thereof. Any or all such signatures may be facsimiles if countersigned by a transfer agent or registrar. Although any officer, transfer agent or registrar whose manual or facsimile signature is affixed to such a certificate ceases to be such officer, transfer agent or registrar before such certificate has been issued, it may nevertheless be issued by the Corporation with the same effect as if such officer, transfer agent or registrar were still such at the date of its issue.

The stock ledger and blank share certificates shall be kept by the Secretary or by a transfer agent or by a registrar or by any other officer or agent designated by the Board.

Section 2. *Transfer of Shares.* Transfer of shares of stock of each class of the Corporation shall be made only on the books of the Corporation by the holder thereof, or by such holder's attorney thereunto authorized by a power of attorney duly executed and filed with the Secretary of the Corporation or a transfer agent for such stock, if any, and on surrender of the certificate or certificates for such shares properly endorsed or accompanied by a duly executed stock transfer power and the payment of all taxes thereon. The person in whose name shares stand on the books of the Corporation shall be deemed the owner thereof for all purposes as regards the Corporation; provided, however, that whenever any transfer of shares shall be made for collateral security and not absolutely, and written notice thereof shall be given to the Secretary or to such transfer agent, such fact shall be stated in the entry of the transfer. No transfer of shares shall be valid as against the Corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the Corporation to the extent provided by law, until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

Section 3. *Address of Stockholders.* Each stockholder shall designate to the Secretary or transfer agent of the Corporation an address at which notices of meetings and all other corporate notices may be served or mailed to such person, and, if any stockholder shall fail to designate such

address, corporate notices may be served upon such person by mail directed to such person at such person's post office address, if any, as the same appears on the share record books of the Corporation or at such person's last known post office address.

Section 4. *Lost, Destroyed and Mutilated Certificates.* The holder of any share of stock of the Corporation shall immediately notify the Corporation of any loss, theft, destruction or mutilation of the certificate therefor; the Corporation may issue to such holder a new certificate or certificates for shares, upon the surrender of the mutilated certificate or, in the case of loss, theft or destruction of the certificate, upon satisfactory proof of such loss, theft or destruction; the Board of Directors, or a committee designated thereby, or the transfer agents and registrars for the stock, may, in their discretion, require the owner of the lost, stolen or destroyed certificate, or such person's legal representative, to give the Corporation a bond in such sum and with such surety or sureties as they may direct to indemnify the Corporation and said transfer agents and registrars against any claim that may be made on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 5. *Regulations.* The Board of Directors may make such additional rules and regulations as it may deem expedient concerning the issue and transfer of certificates representing shares of stock of each class of the Corporation and may make such rules and take such action as it may deem expedient concerning the issue of certificates in lieu of certificates claimed to have been lost, destroyed, stolen or mutilated.

Section 6. *Fixing Date for Determination of Stockholders of Record.* In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. A determination of stockholders entitled to notice of or to vote at a meeting of the stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

## ARTICLE VIII

### SEAL

The Board of Directors may provide for a corporate seal bearing the name of the Corporation in such form and bearing such other words or figures as the Board of Directors may approve and adopt. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

ARTICLE IX

FISCAL YEAR

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

ARTICLE X

WAIVER OF NOTICE

Whenever any notice whatsoever is required to be given by these Bylaws, by the Certificate of incorporation of the Corporation or by law, the person entitled thereto may, either before or after the meeting or other matter in respect of which such notice is to be given, waive such notice in writing, which writing shall be filed with or entered upon the records of the meeting or the records kept with respect to such other matter, as the case may be, and in such event such notice need not be given to such person and such waiver shall be deemed equivalent to such notice.

ARTICLE XI

AMENDMENTS

Any Bylaw (including this Article XI) may be adopted, repealed, altered or amended at any meeting of the Board of Directors by the affirmative vote of a majority of the directors, provided that such proposed action in respect thereof shall be stated in the notice of such meeting.

ARTICLE XII

MISCELLANEOUS

Section 1. *Execution of Documents.* The Board of Directors or any committee thereof shall designate the officers, employees and agents of the Corporation who shall have power to execute and deliver deeds, contracts, mortgages, bonds, debentures, notes, checks, drafts and other orders for the payment of money and other documents for and in the name of the Corporation and may authorize such officers, employees and agents to delegate such power (including authority to redelegate) by written instrument to other officers, employees or agents of the Corporation. Such delegation may be by resolution or otherwise and the authority granted shall be general or confined to specific matters, all as the Board or any such committee may determine. In the absence of such designation referred to in the first sentence of this Section 1, the officers of the Corporation shall have such power so referred to, to the extent incident to the normal performance of their duties.

Section 2. *Deposits.* All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation or otherwise as the Board of Directors or any committee thereof or any officer of the Corporation to whom power in that respect shall have been delegated by the Board or any such committee shall select.

Section 3. *Checks.* All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidence of indebtedness of the Corporation, shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by resolution of the Board of Directors or of any committee thereof.

Section 4. *Proxies in Respect of Stock or Other Securities of Other Corporations.* The Board of Directors or any committee thereof shall designate the officers of the Corporation who shall have authority from time to time to appoint an agent or agents of the Corporation to exercise in the name and on behalf of the Corporation the powers and rights that the Corporation may have as the holder of stock or other securities in any other corporation, and to vote or consent in respect of such stock or securities; such designated officers may instruct the person or persons so appointed as to the manner of exercising such powers and rights; and such designated officers may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal, or otherwise, such written proxies, powers of attorney or other instruments as they may deem necessary or proper in order that the Corporation may exercise its said powers and rights.



State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 04:52 PM 06/28/2005  
FILED 04:47 PM 06/28/2005  
SRV 050539588 – 3987975 FILE

**CERTIFICATE OF INCORPORATION**

**OF**

**GLOBAL FLOW TECHNOLOGIES, INC.**

FIRST. The name of the corporation is Global Flow Technologies, Inc.

SECOND. The street address of the corporation's registered office is Corporation Service Company, 2711 Centerville Road, Suite 400, City of Wilmington, County of New Castle, Delaware 19808. The name of its registered agent in the County of New Castle is Corporation Service Company.

THIRD. (a) The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of Delaware (the "Delaware Code").

(b) In furtherance of the foregoing purposes, the corporation shall have and may exercise all of the rights, powers and privileges granted by the Delaware Code. In addition, it may do everything necessary, suitable and proper for the accomplishment of any of its corporate purposes.

FOURTH. The total number of shares that the corporation shall have the authority to issue is 1,500,000, consisting of 1,000,000 shares of common stock, with each share having a par value of \$.001, and 500,000 shares of preferred stock, with each share having a par value of \$.001.

(a) The Board of Directors is hereby expressly authorized, by resolution or resolutions, to provide, out of the unissued shares of preferred stock, for the issuance of one or more series of preferred stock, with such voting powers, if any, and with such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be expressed in the resolution or resolutions providing for the issuance thereof adopted by the Board of Directors, including, without limiting the generality of the foregoing, the following:

(1) the designation of such series, the number of shares to constitute such series and the stated value thereof if different from the par value thereof;

(2) whether the shares of such series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terms of such voting rights, which may be general or limited;

(3) the dividends, if any, payable on such series, whether any such dividends shall be cumulative, and, if so, from what dates, the conditions and dates upon which such dividends shall be payable, the preferences or relation which such dividends shall bear to the dividends payable on any shares of stock of any other class or any other series of this class;

(4) whether the shares of such series shall be subject to redemption by the corporation, and, if so, the times, prices and other terms and conditions of such redemption;

(5) the amount or amounts payable on shares of such series, and the rights of the holders of such series, upon the voluntary or involuntary liquidation, dissolution or winding up, or upon any distribution of the assets, of the corporation;

(6) whether the shares of such series shall be subject to the operation of a retirement or sinking fund and, if so, the extent to and manner in which any such retirement or sinking fund shall be applied to the purchase or redemption of the shares of such series for retirement or other corporate purposes and the terms and provisions relative to the operation thereof;

(7) whether the shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes or of any other series of this class or any other class or classes of capital stock and, if so, the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same, and any other terms and conditions of such conversion or exchange;

(8) the limitations and restrictions, if any, to be effective while any shares of such series are outstanding upon the payment of dividends or the making of other distributions on, and upon the purchase, redemption or other acquisition by the corporation of, the common stock or shares of stock of any other class or any other series of this class; and

(9) the conditions or restrictions, if any, upon the creation of indebtedness of the corporation or upon the issue of any additional stock, including additional shares of such series or of any other series of this class or of any other class or classes.

The powers, preferences and relative, participating, optional and other special rights of each series of preferred stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. All shares of any one series of preferred stock shall be identical in all respects with all other shares of such series, except that shares of any one series issued at different times may differ as to the dates from which dividends thereon shall be cumulative and except for such other differences as are otherwise permitted by law.

(b) Each holder of record of common stock of the corporation shall be entitled to one vote for each share of common stock held by that holder, except that in the election of directors each holder shall be entitled to vote all shares of common stock held by that holder for each nominee for director to be elected and for whose election the holder has a right to vote, without cumulating those votes. Cumulative voting shall not be permitted in the election of directors or otherwise.

(c) Unless otherwise ordered by a court of competent jurisdiction, at all meetings of stockholders a majority of the shares of a voting group entitled to vote at such meeting, represented in person or by proxy, shall constitute a quorum of that voting group.

(d) No holder of capital stock of the corporation shall have, solely by reason of holding such capital stock, any preemptive or similar right to acquire any additional unissued or treasury shares of stock or other securities of any class, or rights, warrants or options to purchase stock or scrip, or securities of any kind convertible into stock or carrying stock purchase warrants or privileges, except as may be provided in writing by the Board of Directors of the corporation, including as described in certificates of designations or otherwise.

FIFTH. The corporation shall have perpetual existence.

SIXTH. Elections of directors need not be by written ballot unless the bylaws of the corporation so provide.

SEVENTH. The Board of Directors of the corporation is expressly authorized to adopt, amend or repeal the bylaws of the corporation, subject to any limitations that may be set forth in a certificate of designation of a series of preferred stock filed by the corporation from time to time with the Secretary of State of the State of Delaware in accordance with the Delaware Code.

EIGHTH. The personal liability of each director of the corporation shall be eliminated and limited to the full extent permitted by the laws of the State of Delaware, including without limitation as permitted by the provisions of Section 102(b)(7) of Title 8 of the Delaware Code and any successor provision, as amended from time to time. No amendment of this certificate of incorporation or repeal of any of its provisions shall limit or eliminate the benefits provided to directors under this provision with respect to any act or omission that occurred prior to that amendment or repeal.

NINTH.

(a) The name and mailing address of the directors, who shall serve until the first annual meeting of stockholders or until their successors are elected and qualified, are as follows:

<u>Name</u>	<u>Address</u>
Andrew L. Waite	600 Travis, Suite 6600 Houston, TX 77002
John W. H. Geddes	3202 Canterra Tower 400 - 3rd Avenue S.W. Calgary, Alberta T2P 4H2

(b) The number of directors of the corporation shall be fixed and may be altered from time to time as provided in the bylaws of the corporation. If the number of directors is decreased by resolution of the Board of Directors pursuant to the bylaws, in no case shall the decrease shorten the term of any incumbent director.

(c) A director shall hold office until his or her successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement or removal from office. Any newly created directorship resulting from an increase in the number of directors and any other vacancy on the Board of Directors, however caused, may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. Any director elected by one or more directors to fill a newly created directorship or other vacancy shall hold office until the next succeeding annual meeting of stockholders and until his or her successor shall have been elected and qualified.

(d) Advance notice of nominations for the election of directors, other than nominations by the Board of Directors or a committee thereof, shall be given to the corporation in the manner provided from time to time in the bylaws.

TENTH. The corporation hereby elects not to be subject to the provisions of Section 203 of the Delaware Code.

ELEVENTH. Holders of the outstanding shares of a class or series shall not be entitled to vote separately as a class with respect to any matter, including proposed amendments to this Certificate of Incorporation, except as expressly provided in this Certificate of Incorporation, including any resolutions adopted by the Board of Directors establishing a series of preferred stock, or to the extent required by law. In furtherance of the foregoing, the number of authorized shares of common stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of corporation entitled to vote irrespective of Section 242(b)(2) of the Delaware Code and without a separate class vote of the common stock, subject to any additional vote required by any resolutions adopted by the Board of Directors establishing a series of preferred stock.

TWELFTH. The capitalized terms in this ARTICLE TWELFTH shall have the meanings ascribed to them below in subsection (c) of this ARTICLE TWELFTH.

(a) The corporation hereby renounces any interest or expectancy in any business opportunity, transaction or other matter in which any member of the Preferred Group (as defined below) participates or desires or seeks to participate in and that involves any aspect of the business of designing, engineering, manufacturing, distributing and marketing valves or any other industry, including any other industry in which the corporation operates (each, a “Business Opportunity”) other than a Business Opportunity that (i) is presented to a Preferred Nominee solely in such person’s capacity as a director of the corporation and with respect to which no other member of the Preferred Group (other than a Preferred Nominee) independently receives notice or otherwise identifies such Business Opportunity, (ii) is identified by the Preferred Group solely through the disclosure of information by or on behalf of the corporation, or (iii) is presented to any member of the Preferred Group if the Person making such presentation identifies it as an opportunity solely for the Corporation (each Business Opportunity other than those referred to in clauses (i), (ii) or (iii) are referred to as a “Renounced Business Opportunity”). No Member of the Preferred Group, including any Preferred Nominee, shall have any obligation to communicate or offer any Renounced Business Opportunity to the corporation, and any member of the Preferred Group may pursue a Renounced Business Opportunity.

(b) Any Person purchasing or otherwise acquiring any interest in shares of the capital stock of the corporation shall be deemed to have consented to these provisions.

(c) As used in this ARTICLE TWELFTH, the following definitions shall apply:

(i) “Affiliate” shall have the meaning set forth in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended.

(ii) “Person” means an individual, partnership, limited partnership, limited liability company, foreign limited liability company, trust, estate, corporation, custodian, trustee-executor, administrator, nominee or entity.

(iii) “Pon” means Pon North America, Inc., a Delaware corporation.

(iv) “Preferred Group” means SCF, Pon, any of their respective Affiliates (other than the corporation and its subsidiaries), any Preferred Nominee, and any portfolio company in which SCF or any of its Affiliates has an equity investment (other than the corporation and its subsidiaries).

(v) “Preferred Nominee” means any officer, director, partner, employee or other agent of SCF or Pon or any Affiliate of SCF or Pon (other than the corporation and its subsidiaries) who serves as a Director of the corporation.

(vi) “SCE” means SCF-V, L.P., a Delaware limited partnership.

(d) Any proposed amendment to this ARTICLE TWELFTH shall require the approval of at least seventy percent (70%) of the outstanding common stock.

THIRTEENTH. The name of the incorporator is Amy Nelson, and her mailing address is 600 Travis, Suite 6600, Houston, Texas 77002.

I, the undersigned, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring that this is my act and deed and that the facts herein stated are true, and accordingly have hereunto set my hand this 28th day of June, 2005.

/s/ Amy Nelson

Amy Nelson

**BYLAWS**  
**OF**  
**GLOBAL FLOW TECHNOLOGIES, INC.**

A Delaware Corporation

Date of Adoption:

June 29, 2005

**BYLAWS OF  
GLOBAL FLOW TECHNOLOGIES, INC.**

**Article I**

**Offices**

Section 1. Registered Office. The registered office of the Corporation required by the General Corporation Law of the State of Delaware (the “Delaware General Corporation Law”) to be maintained in the State of Delaware, shall be the registered office named in the original Certificate of Incorporation of the Corporation, or such other office as may be designated from time to time by the Board of Directors in the manner provided by law. Should the Corporation maintain a principal office within the State of Delaware such registered office need not be identical to such principal office of the Corporation.

Section 2. Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

**Article II**

**Stockholders**

Section 1. Place of Meetings. All meetings of the stockholders shall be held at the principal office of the Corporation, at such other place within or without the State of Delaware or solely by means of remote communication as shall be specified or fixed in the notices or waivers of notice thereof.

Section 2. Quorum; Adjournment of Meetings. Unless otherwise required by law or provided in the Certificate of Incorporation or these bylaws, (i) the holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or by remote communication, if any, or represented by proxy, shall constitute a quorum at any meeting of stockholders for the transaction of business, (ii) directors shall be elected by a plurality of the votes of the shares present in person or by remote communication, if any, or represented by proxy at the meeting and entitled to vote on the election of directors, (iii) in all matters other than election of directors, the affirmative vote of the holders of a majority of the voting power attributable to such stock present in person or by remote communication, if any, or represented by proxy at any meeting of stockholders at which a quorum is present shall constitute the act of the stockholders, and (iv) where a separate vote by a class or classes is required, a majority of the voting power attributable to the outstanding shares of such class or classes, present in person or by remote communication, if any, or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter and the affirmative vote of the majority of the voting power attributable to the shares of such class or classes present in person or by



remote communication, if any, or represented by proxy shall be the act of such class. The stockholders present in person or by remote communication, if any, at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Notwithstanding the other provisions of the Certificate of Incorporation or these bylaws, the chairman of the meeting or the holders of a majority of the issued and outstanding stock, present in person or by remote communication, if any, or represented by proxy, at any meeting of stockholders, whether or not a quorum is present, shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such meeting. At such adjourned meeting at which a quorum shall be present in person or by remote communication, if any, or represented by proxy, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3. Annual Meetings. An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, within or without the State of Delaware or solely by means of remote communication, on such date, and at such time as the Board of Directors shall fix and set forth in the notice of the meeting, which date shall be within thirteen (13) months subsequent to the later of the date of incorporation of the Corporation or the last annual meeting of stockholders.

Section 4. Special Meetings. Unless otherwise provided in the Certificate of Incorporation, special meetings of the stockholders for any purpose or purposes may be called at any time by the Chairman of the Board (if any), by the President or by a majority of the Board of Directors. Business transacted at a special meeting shall be confined to the purpose(s) stated in the notice of such meeting.

Section 5. Record Date. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders, or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors of the Corporation may fix, in advance, a date as the record date for any such determination of stockholders, which date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

If the Board of Directors does not fix a record date for any meeting of the stockholders, the record date for determining stockholders entitled to notice of or to vote at such meeting shall be at the close of business on the day next preceding the day on which notice is given, or, if in accordance with Article VIII, Section 3 of these bylaws notice is waived, at the close of business on the day next preceding the day on which the

meeting is held. If, in accordance with Section 12 of this Article II, corporate action without a meeting of stockholders is to be taken, the record date for determining stockholders entitled to express consent to such corporate action in writing, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed. The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 6. Notice of Meetings. Written notice of the place, date, hour and means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present and vote at all meetings, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by or at the direction of the Chairman of the Board (if any) or the President, the Secretary or the other person(s) calling the meeting to each stockholder entitled to vote thereat not less than ten (10) nor more than sixty (60) days before the date of the meeting. Such notice may be delivered personally, by mail or by electronic transmission pursuant to Section 232 of the Delaware General Corporation Law. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the Corporation. If electronically transmitted, notice is given as provided in Section 232 of the Delaware General Corporation Law.

Section 7. Stock List. A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in the name of such stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Section 8. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing or by electronic transmission without a meeting may authorize another person or persons to act for him by proxy. Proxies for use at any meeting of stockholders shall be filed with the Secretary, or such other officer as the Board of Directors may from time to time determine by

resolution, before or at the time of the meeting. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the secretary of the meeting who shall decide all questions touching upon the qualification of voters, the validity of the proxies, and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the chairman of the meeting, in which event such inspector or inspectors shall decide all such questions.

No proxy shall be valid after three (3) years from its date, unless the proxy provides for a longer period. Each proxy shall be revocable unless expressly provided therein to be irrevocable and coupled with an interest sufficient in law to support an irrevocable power.

Should a proxy designate two or more persons to act as proxies, unless such instrument shall provide the contrary, a majority of such persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, each proxy so attending shall be entitled to exercise such powers in respect of the same portion of the shares as he is of the proxies representing such shares.

Section 9. Voting; Elections; Inspectors. Unless otherwise required by law or provided in the Certificate of Incorporation, each stockholder shall have one vote for each share of stock entitled to vote which is registered in his name on the record date for the meeting. Shares registered in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaw (or comparable instrument) of such corporation may prescribe, or in the absence of such provision, as the board of directors (or comparable body) of such corporation may determine. Shares registered in the name of a deceased person may be voted by his executor or administrator, either in person or by proxy.

All voting, except as required by the Certificate of Incorporation or where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefor by stockholders holding a majority of the issued and outstanding stock present in person or by proxy at any meeting a stock vote shall be taken. Every stock vote shall be taken by written ballots, each of which shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. Except as otherwise provided in the Certificate of Incorporation, all elections of directors shall be by ballot.

At any meeting at which a vote is taken by ballots, the chairman of the meeting may appoint one or more inspectors, each of whom shall subscribe an oath or affirmation to execute faithfully the duties of inspector at such meeting with strict impartiality and according to the best of his ability. Such inspector shall receive the ballots, count the votes and make and sign a certificate of the result thereof. The chairman of the meeting may appoint any person to serve as inspector, except no candidate for the office of director shall be appointed as an inspector.

Unless otherwise provided in the Certificate of Incorporation, cumulative voting for the election of directors shall be prohibited.

Section 10. Conduct of Meetings. The meetings of the stockholders shall be presided over by the Chairman of the Board (if any), or if he is not present, by the President, or if neither the Chairman of the Board (if any) nor the President is present, by a chairman elected at the meeting. The Secretary of the Corporation, if present, shall act as secretary of such meetings, or if he is not present, an Assistant Secretary shall so act; if neither the Secretary nor an Assistant Secretary is present, then a secretary shall be appointed by the chairman of the meeting. The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him in order. Unless the chairman of the meeting of stockholders shall otherwise determine, the order of business shall be as follows:

- (a) Calling of meeting to order.
- (b) Election of a chairman and the appointment of a secretary, if necessary.
- (c) Presentation of proof of the due calling of the meeting.
- (d) Presentation and examination of proxies and determination of a quorum.
- (e) Reading and settlement of the minutes of the previous meeting.
- (f) Reports of officers and committees.
- (g) The election of directors if an annual meeting, or a meeting called for that purpose.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

Section 11. Treasury Stock. The Corporation shall not vote, directly or indirectly, shares of its own stock owned by it and such shares shall not be counted for quorum purposes.

Section 12. Action Without Meeting. Unless otherwise provided in the Certificate of Incorporation, any action permitted or required by law, the Certificate of Incorporation or these bylaws to be taken at a meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing or by electronic transmission setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than a unanimous written consent shall be given by the Secretary to those stockholders who have not consented in writing.

## Article III

### Board of Directors

Section 1. Power; Number; Term of Office. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, and subject to the restrictions imposed by law or the Certificate of Incorporation, they may exercise all the powers of the Corporation.

The number of directors which shall constitute the whole Board of Directors, shall be determined from time to time by resolution of the Board of Directors (provided that no decrease in the number of directors which would have the effect of shortening the term of an incumbent director may be made by the Board of Directors). Notwithstanding the above, for so long as there are any shares of Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock outstanding, there shall at all times be one seat on the Board of Directors available for the "Preferred Director" as that term is defined in the certificates of designation creating the Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock. Each director shall hold office for the term for which he is elected, and until his successor shall have been elected and qualified or until his earlier death, resignation or removal.

Unless otherwise provided in the Certificate of Incorporation, directors need not be stockholders or residents of the State of Delaware.

Section 2. Quorum. Unless otherwise provided in the Certificate of Incorporation or these bylaws, a majority of the total number of directors shall constitute a quorum for the transaction of business at a meeting of the Board of Directors and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3. Place of Meetings; Order of Business. The directors may hold their meetings and may have an office and keep the books of the Corporation, except as otherwise provided by law, in such place or places, within or without the State of Delaware, as the Board of Directors may from time to time determine, by resolution. At all meetings of the Board of Directors business shall be transacted in such order as shall from time to time be determined by the Chairman of the Board (if any), or in his absence by the President, or by resolution of the Board of Directors.

Section 4. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated from time to time by resolution of the Board of Directors upon notice to the directors.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board (if any), the President or, on the written request of any two directors or the "Preferred Director" (as such term is defined in the certificates of

designation creating the Series B Preferred Stock, the Series C Preferred Stock or the Series D Preferred Stock), by the Secretary, in each case after delivery of personal, written or electronic notice to each director at least one business day prior to such special meeting. Such notice, or any waiver thereof pursuant to Article VIII, Section 3 hereof, must state the purpose or purposes of such meeting, except as may otherwise be required by law or provided for in the Certificate of Incorporation or these bylaws.

Section 6. Removal. Any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, unless the Certificate of Incorporation otherwise provides.

Section 7. Vacancies; Increases in the Number of Directors. Unless otherwise provided in the Certificate of Incorporation, newly created directorships resulting from any increase in the authorized number of directors and any other vacancy on the Board of Directors may be filled by a majority of the directors then in office, although less than a quorum, or a sole remaining director; and any director so chosen shall hold office until the next annual election and until his successor shall be duly elected and shall qualify, unless sooner displaced.

If the directors of the Corporation are divided into classes, any directors elected to fill vacancies or newly created directorships shall hold office until the next election of the class for which such directors shall have been chosen, and until their successors shall be duly elected and shall qualify.

Section 8. Compensation. Unless otherwise restricted by the Certificate of Incorporation, the Board of Directors shall have the authority to fix the compensation of directors.

Section 9. Action Without a Meeting; Telephone Conference Meeting. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee designated by the Board of Directors, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State of Delaware.

Unless otherwise restricted by the Certificate of Incorporation, subject to the requirement for notice of meetings, members of the Board of Directors, or members of any committee designated by the Board of Directors, may participate in a meeting of such Board of Directors or committee, as the case may be, by means of a conference telephone or similar communications equipment (and the Corporation shall make such means available) by means of which all persons participating in the meeting can hear each other, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

## **Article IV**

### **Committees**

Section 1. Designation; Powers. The Board of Directors may, by resolution passed by a majority of the whole board, designate one or more committees, including, if they shall so determine, an executive committee, each such committee to consist of one or more of the directors of the Corporation. Any such designated committee shall have and may exercise such of the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation as may be provided in such resolution, except that no such committee shall have the power or authority of the Board of Directors in reference to any matter prohibited by the Delaware General Corporation Law. Any such designated committee may authorize the seal of the Corporation to be affixed to all papers which may require it. In addition to the above such committee or committees shall have such other powers and limitations of authority as may be determined from time to time by resolution adopted by the Board of Directors.

Section 2. Procedure; Meetings; Quorum. Any committee designated pursuant to Section 1 of this Article IV shall choose its own chairman, shall keep regular minutes of its proceedings and report the same to the Board of Directors when requested, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules, or by resolution of such committee or resolution of the Board of Directors. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any resolution.

Section 3. Substitution of Members. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

## **Article V**

### **Officers**

Section 1. Number, Titles and Term of Office. The officers of the Corporation shall consist of a President, one or more Vice Presidents (any one or more of whom may be designated Executive Vice President or Senior Vice President), a Treasurer, a Secretary and, if the Board of Directors so elects, a Chairman of the Board and such other officers as the Board of Directors may from time to time elect or appoint. Each officer shall hold office until his successor shall be duly elected and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter

provided. Any number of offices may be held by the same person, unless the Certificate of Incorporation provides otherwise. Except for the Chairman of the Board, if any, no officer need be a director.

Section 2. Salaries. The salaries or other compensation of the officers and agents of the Corporation shall be fixed from time to time by the Board of Directors.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed, either with or without cause, by the vote of a majority of the whole Board of Directors at a special meeting called for the purpose, or at any regular meeting of the Board of Directors, provided the notice for such meeting shall specify that the matter of any such proposed removal will be considered at the meeting but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4. Vacancies. Any vacancy occurring in any office of the Corporation may be filled by the Board of Directors.

Section 5. Powers and Duties of the Chairman of the Board. The Chairman of the Board (if such office is created by the Board) shall have all powers and shall perform all duties incident to the office of Chairman of the Board. The Chairman shall preside at all meetings of the Board of Directors or of the stockholders of the Corporation. In the Chairman's absence, such duties shall be attended to by the President. The Chairman shall formulate and submit to the Board of Directors or the executive committee (if any) matters of general policy of the Corporation and shall have such other powers and perform such other duties as usually appertain to the office or as may be prescribed by the Board of Directors or the executive committee. The Chairman of the Board may hold such other offices as the Board of Directors may determine.

Section 7. Powers and Duties of the President. The President shall be the chief executive officer and the chief operating officer of the Corporation and, subject to the control of the Board of Directors, shall in general manage, supervise and control the properties, business and day-to-day affairs of the Corporation with all such powers as may be reasonably incident to such responsibilities. In the absence of the Chairman of the Board, the President shall preside at all meetings of the stockholders and (should he be a director) of the Board of Directors. He may also preside at any such meeting attended by the Chairman of the Board if he is so designated by the Chairman. He shall have the power to appoint and remove subordinate officers, agents and employees, except those elected or appointed by the Board of Directors. Unless the Board of Directors otherwise determines, the President shall have the authority to agree upon and execute all leases, contracts, evidences of indebtedness, and other obligations in the name of the Corporation. The President shall keep the Board of Directors, and the executive committee (if any) fully informed and shall consult them concerning the business of the Corporation. He shall vote, or give a proxy to any other officer of the Corporation to vote all shares of stock of any other corporation standing in the name of the Corporation and shall exercise any and all rights and powers which this Corporation may possess by



reason of its ownership of securities in such other corporation; provided that the Board of Directors may from time to time, by resolution, confer like powers upon any other person or persons. In general the President shall have all powers and shall perform all other duties normally incident to the office of President and such other duties, and shall have such other powers, as may be prescribed by these by-laws, the Board of Directors, or the executive committee (if any) from time to time.

Section 8. Vice Presidents. In the absence of the President, or in the event of his inability or refusal to act, a Vice President designated by the Board of Directors shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. In the absence of a designation by the Board of Directors of a Vice President to perform the duties of the President, or in the event of his absence or inability or refusal to act, the Vice President who is present and who is senior in terms of time as a Vice President of the Corporation shall so act. The Vice Presidents shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 9. Treasurer. The Treasurer shall have responsibility for the custody and control of all the funds and securities of the Corporation, and he shall have such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the Board of Directors. He shall perform all acts incident to the position of Treasurer, subject to the control of the chief executive officer and the Board of Directors; and he shall, if required by the Board of Directors, give such bond for the faithful discharge of his duties in such form as the Board of Directors may require.

Section 10. Assistant Treasurers. Each Assistant Treasurer, if any, shall have the usual powers and duties pertaining to his office, together with such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the chief executive officer or the Board of Directors. The Assistant Treasurers shall exercise the powers of the Treasurer during that officer's absence or inability or refusal to act.

Section 11. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors, committees of directors and the stockholders, in books provided for that purpose; he shall attend to the giving and serving of all notices; he may in the name of the Corporation affix the seal of the Corporation to all contracts of the Corporation and attest the affixation of the seal of the Corporation thereto; he may sign with the other appointed officers all certificates for shares of capital stock of the Corporation; he shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to inspection of any director upon application at the office of the Corporation during business hours; he shall have such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the Board of Directors; and he shall in general perform all acts incident to the office of Secretary, subject to the control of the chief executive officer and the Board of Directors.

Section 12. Assistant Secretaries. Each Assistant Secretary, if any, shall have the usual powers and duties pertaining to his office, together with such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the chief executive officer or the Board of Directors. The Assistant Secretaries shall exercise the powers of the Secretary during that officer's absence or inability or refusal to act.

Section 13. Action with Respect to Securities of Other Corporations. Unless otherwise directed by the Board of Directors, the chief executive officer shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of security holders of or with respect to any action of security holders of any other corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.

## **Article VI**

### **Indemnification of Directors, Officers, Employees and Agents**

Section 1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative, is or was or has agreed to become a director or officer of the Corporation or is or was serving or has agreed to serve at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director or officer or in any other capacity while serving or having agreed to serve as a director or officer, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended, (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against all expense, liability and loss (including without limitation, attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the Corporation. The right to indemnification conferred in this Article VI shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware

General Corporation Law requires, the payment of such expenses incurred by a current, former or proposed director or officer in his or her capacity as a director or officer or proposed director or officer (and not in any other capacity in which service was or is or has been agreed to be rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnified person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Section 1.

Section 2. Indemnification of Employees and Agents. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation, individually or as a group, with the same scope and effect as the indemnification of directors and officers provided for in this Article VI.

Section 3. Right of Claimant to Bring Suit. If a written claim received by the Corporation from or on behalf of an indemnified party under this Article VI is not paid in full by the Corporation within ninety days after such receipt, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 4. Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any law (common or statutory), provision of the Certificate of Incorporation of the Corporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 5. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any person who is or was serving as a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss asserted against such person

and incurred by any such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6. Savings Clause. If this Article VI or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each director and officer of the Corporation, as to costs, charges and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article VI that shall not have been invalidated and to the fullest extent permitted by applicable law.

Section 7. Amendment, Modification or Repeal. Any amendment, modification or repeal of this Article VI by the Board of Directors or the stockholders of the Corporation shall not adversely affect any right of or protection afforded to a director, officer, employee or agent of the Corporation existing at the time of such amendment, modification or repeal.

## **Article VII**

### **Capital Stock**

Section 1. Certificates of Stock. The certificates for shares of the capital stock of the Corporation shall be in such form, not inconsistent with that required by law and the Certificate of Incorporation, as shall be approved by the Board of Directors. The Chairman of the Board (if any), President or a Vice President shall cause to be issued to each stockholder one or more certificates, under the seal of the Corporation or a facsimile thereof if the Board of Directors shall have provided for such seal, and signed by the Chairman of the Board (if any), President or a Vice President and the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer certifying the number of shares (and, if the stock of the Corporation shall be divided into classes or series, the class and series of such shares) owned by such stockholder in the Corporation; provided, however, that any of or all the signatures on the certificate may be facsimile. The stock record books and the blank stock certificate books shall be kept by the Secretary, or at the office of such transfer agent or transfer agents as the Board of Directors may from time to time by resolution determine. In case any officer, transfer agent or registrar who shall have signed or whose facsimile signature or signatures shall have been placed upon any such certificate or certificates shall have ceased to be such officer, transfer agent or registrar before such certificate is issued by the Corporation, such certificate may nevertheless be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The stock certificates shall be consecutively numbered and shall be entered in the books of the Corporation as they are issued and shall exhibit the holder's name and number of shares.

Section 2. Transfer of Shares. The shares of stock of the Corporation shall be transferable only on the books of the Corporation by the holders thereof in person or by their duly authorized attorneys or legal representatives upon surrender and cancellation of certificates for a like number of shares. Upon surrender to the Corporation or a transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

Section 3. Ownership of Shares. The Corporation shall be entitled to treat the holder of record of any share or shares of capital stock of the Corporation as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

Section 4. Regulations Regarding Certificates. The Board of Directors shall have the power and authority to make all such rules and regulations as they may deem expedient concerning the issue, transfer and registration or the replacement of certificates for shares of capital stock of the Corporation.

Section 5. Lost or Destroyed Certificates. The Board of Directors may determine the conditions upon which a new certificate of stock may be issued in place of a certificate which is alleged to have been lost, stolen or destroyed; and may, in their discretion, require the owner of such certificate or his legal representative to give bond, with sufficient surety, to indemnify the Corporation and each transfer agent and registrar against any and all losses or claims which may arise by reason of the issue of a new certificate in the place of the one so lost, stolen or destroyed.

## **Article VIII**

### **Miscellaneous Provisions**

Section 1. Fiscal Year. The fiscal year of the Corporation shall be such as established from time to time by the Board of Directors.

Section 2. Corporate Seal. The Board of Directors may provide a suitable seal, containing the name of the Corporation. The Secretary shall have charge of the seal (if any). If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by the Assistant Secretary or Assistant Treasurer.

Section 3. Notice and Waiver of Notice. Except as otherwise provided in these bylaws, whenever any notice is required to be given by law, the Certificate of Incorporation or under the provisions of these bylaws, said notice shall be deemed to be given (i) when received if delivered personally or by courier, (ii) on the date receipt is acknowledged if delivered by certified mail, postage prepaid, return receipt requested, (iii) one business day after transmission if sent by facsimile transmission or electronic

transmission with confirmation of transmission, or (iv) five business days following deposit of the same in a post office box postage prepaid in a sealed prepaid wrapper addressed to the person entitled thereto at his post office address, as it appears on the records of the Corporation, and such notice shall be deemed to have been given on the day of such transmission or mailing, as the case may be. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

Whenever notice is required to be given by law, the Certificate of Incorporation or under any of the provisions of these bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or the bylaws.

Section 4. Resignations. Any director, member of a committee or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the chief executive officer or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. Facsimile Signatures. In addition to the provisions for the use of facsimile signatures elsewhere specifically authorized in these bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors.

Section 6. Reliance upon Books, Reports and Records. Each director and each member of any committee designated by the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the books of account or reports made to the Corporation by any of its officers, or by an independent certified public accountant, or by an appraiser selected with reasonable care by the Board of Directors or by any such committee, or in relying in good faith upon other records of the Corporation.

## **Article IX**

### **Amendments**

If, but only to the extent, provided in the Certificate of Incorporation of the Corporation, the Board of Directors shall have the power to adopt, amend and repeal from time to time bylaws of the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to amend or repeal such bylaws as adopted or amended by the Board of Directors.

State of Delaware  
 Secretary of State  
 Division of Corporations  
 Delivered 01:03 PM 01/12/2007  
 FILED 01:03 PM 01/12/2007  
 SRV 070040202 - 4264181 FILE

**CERTIFICATE OF INCORPORATION  
 OF  
 PSSI HOLDINGS INC.**

FIRST: The name of the corporation is PSSI Holdings Inc.

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

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the corporation shall have authority to issue is One Thousand (1,000) shares of Common Stock of the par value of one cent (\$0.01) per share.

FIFTH: The name of the incorporator is Adam D. Larson and his mailing address is c/o Vinson & Elkins L.L.P., First City Tower, 1001 Fannin Street, Suite 2500, Houston, Texas 77002-6720.

SIXTH: The name and mailing address of the directors who shall serve until the first annual meeting of stockholders or until their successors are elected and qualified, are as follows:

<u>Name</u>	<u>Address</u>
Martin Anderson	"Sambaiba" Kinstair Farm, Alford Aberdeenshire, Scotland AB33 8HL
Fred Bruce Lokay	12 Bamboo Lane Jupiter, Florida 33458

The number of directors of the corporation shall be as specified in, or determined in the manner provided in, the bylaws. Election of directors need not be by written ballot.

SEVENTH: In furtherance of, and not in limitation of, the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the corporation.

EIGHTH: Whenever a compromise or arrangement is proposed between the corporation and its creditors or any class of them and/or between the corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of

any receiver or receivers appointed for the corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the corporation, as the case may be, and also on the corporation.

NINTH: (a) No director of the corporation shall be liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

(b) Indemnification and Insurance.

(i) Right to Indemnification. (A) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, is or was a director or officer of the corporation, or serves at the request of the corporation, in any capacity, any corporation, partnership or other entity in which the corporation has a partnership or other interest, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators, and (B) the corporation shall indemnify and hold harmless in such manner any person designated by the Board of Directors, or any committee thereof, as a person subject to this indemnification provision, and who was or is made a party or is threatened to be made a party to a proceeding by reason of the fact that he, she or a person of whom he or she is the legal representative, is or was serving at the request of the Board of Directors of the corporation as a director, officer,



employee or agent of another corporation or a partnership, joint venture, trust or other enterprise whether such request is made before or after the acts taken or allegedly taken or events occurring or allegedly occurring which give rise to such proceeding; provided, however, that except as provided in subsection (b)(ii) of this Section, the corporation shall indemnify any such person seeking indemnification pursuant to this subsection in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred herein shall be a contract right based upon an offer from the corporation which shall be deemed to have been made to a person subject to subsection (b)(i)(A) on the date hereof and to a person subject to subsection (b)(i)(B) on the date designated by the Board of Directors, shall be deemed to be accepted by such person's service or continued service as a director or officer of the corporation for any period after the offer is made and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in his or her capacity as the director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The corporation may, by action of its Board of Directors, provide indemnification to employees or agents of the corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(ii) Right of Claimant to Bring Suit. If a claim under Section (b)(i) of this Article is not paid in full by the corporation within thirty days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(iii) Nonexclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section shall not be exclusive of any right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(iv) Insurance. The corporation may maintain insurance, at its expense, to protect itself and any director officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

(v) Severability. If any subsection of this Section (b) shall be deemed to be invalid or ineffective in any proceedings, the remaining subsections hereof shall not be affected and shall remain in full force and effect.

TENTH: The corporation shall have the right, subject to any express provisions or restrictions contained in the certificate of incorporation or bylaws of the corporation, from time to time, to amend the certificate of incorporation or any provision thereof in any manner now or hereafter provided by law, and all rights and powers of any kind conferred upon a director or stockholder of the corporation by the certificate of incorporation or any amendment thereof are subject to such right of the corporation.

*[Signature Page Follows]*

I, the undersigned, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring that this is my act and deed and that the facts herein stated are true, and accordingly have hereunto set my hand this 12<sup>th</sup> day of January, 2007.

/s/ Adam D. Larson  
Adam D. Larson, Incorporator

*[Signature Page to Certificate of Incorporation of PSSI Holdings Inc.]*

**CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
PSSI HOLDINGS INC.**

**April 16, 2007**

PSSI Holdings Inc., a corporation organized and existing under and by virtue of the General Corporation Law of Delaware (the "Company"), hereby certifies the following:

FIRST: That the board of directors of the Company duly adopted a resolution proposing and declaring advisable the following amendment to the Certificate of Incorporation of the Company in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware:

1. Article FIRST of the Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:

"FIRST: The name of the corporation is TGH (US) Inc."

SECOND: That the foregoing amendment to the Certificate of Incorporation was duly adopted by the board of directors of the Company by unanimous written consent in accordance with the provisions of Section 141(f) and Section 242 of the General Corporation Law of the State of Delaware.

THIRD: That the foregoing amendment to the Certificate of Incorporation was duly adopted and approved by written consent by the stockholders of all shares of capital stock of the Company entitled to vote thereon in accordance with Section 228 and Section 242 of the General Corporation Law of the State of Delaware.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned officer has duly executed this Certificate of Amendment on behalf of the Company as of the date first written above.

PSSI HOLDINGS INC.

By: /s/ Martin Anderson

Name: Martin Anderson

Title: President

*[Signature Page to Amendment to Certificate of Formation of PSSI Holdings Inc. (Name Change)]*

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 05:43 PM 10/24/2011  
FILED 05:35 PM 10/24/2011  
SRV 111130293 - 4264181 FILE

**STATE OF DELAWARE  
CERTIFICATE OF CHANGE  
OF REGISTERED AGENT AND/OR  
REGISTERED OFFICE**

The Board of Directors of TGH (US) Inc., a Delaware Corporation, on this 24th day of October, A.D. 2011, do hereby resolve and order that the location of the Registered Office of this Corporation within this State be, and the same hereby is 160 Greentree Drive, Suite 101 Street, in the City of Dover, County of Kent Zip Code 19904.

The name of the Registered Agent therein and in charge thereof upon whom process against this Corporation may be served, is National Registered Agents, Inc..

The Corporation does hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Directors at a meeting held as herein stated.

**IN WITNESS WHEREOF**, said Corporation has caused this certificate to be signed by an authorized officer, the 24th day of October, A.D., 2011.

By: /s/ Victor Alfano  
Authorized Officer

Name: Victor Alfano  
Print or Type

Title: Vice President

**BYLAWS**

**OF**

**PSSI Holdings Inc.**

A Delaware Corporation

Date of Adoption:

January 12, 2007

PSSI HOLDINGS INC.

BYLAWS

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ARTICLE IX  
AMENDMENTS

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**OF**  
**PSSI HOLDINGS INC.**

**ARTICLE I**  
**OFFICES**

Section 1.01 Registered Office. The registered office of the Corporation required by the General Corporation Law of the State of Delaware to be maintained in the State of Delaware, shall be the registered office named in the original Certificate of Incorporation of the Corporation, or such other office as may be designated from time to time by the Board of Directors in the manner provided by law. Should the Corporation maintain a principal office within the State of Delaware such registered office need not be identical to such principal office of the Corporation.

Section 1.02 Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

**ARTICLE II**  
**STOCKHOLDERS**

Section 2.01 Place of Meetings. All meetings of the stockholders shall be held at the principal office of the Corporation, or at such other place within or without the State of Delaware as shall be specified or fixed in the notices or waivers of notice thereof.

Section 2.02 Quorum; Adjournment of Meetings. Unless otherwise required by law or provided in the Certificate of Incorporation or these bylaws, the holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at any meeting of stockholders for the transaction of business and the act of a majority of such stock so represented at any meeting of stockholders at which a quorum is present shall constitute the act of the meeting of stockholders. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Notwithstanding the other provisions of the Certificate of Incorporation or these bylaws, the chairman of the meeting or the holders of a majority of the issued and outstanding stock, present in person or represented by proxy, at any meeting of stockholders, whether or not a quorum is present, shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned

meeting shall be given to each stockholder of record entitled to vote at such meeting. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally called.

Section 2.03 Annual Meetings. An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, within or without the State of Delaware, on such date, and at such time as the Board of Directors shall fix and set forth in the notice of the meeting, which date shall be within thirteen (13) months subsequent to the later of the date of incorporation or the last annual meeting of stockholders.

Section 2.04 Special Meetings. Unless otherwise provided in the Certificate of Incorporation, special meetings of the stockholders for any purpose or purposes may be called at any time by the President or by a majority of the Board of Directors, or by a majority of the executive committee (if any), and shall be called by the President or the Secretary upon the written request therefor, stating the purpose or purposes of the meeting, delivered to such officer, signed by the holder(s) of at least ten percent (10%) of the issued and outstanding stock entitled to vote at such meeting.

Section 2.05 Record Date. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders, or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors of the Corporation may fix, in advance, a date as the record date for any such determination of stockholders, which date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

If the Board of Directors does not fix a record date for any meeting of the stockholders, the record date for determining stockholders entitled to notice of or to vote at such meeting shall be at the close of business on the day next preceding the day on which notice is given, or, if in accordance with Article VIII, Section 3 of these bylaws notice is waived, at the close of business on the day next preceding the day on which the meeting is held. If, in accordance with Section 12 of this Article II, corporate action without a meeting of stockholders is to be taken, the record date for determining stockholders entitled to express consent to such corporate action in writing, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed. The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 2.06 Notice of Meetings. Written notice of the place, date and hour of all meetings, and, in case of a special meeting, the purpose or purposes for which the meeting is

called, shall be given by or at the direction of the President, the Secretary or the other person(s) calling the meeting to each stockholder entitled to vote thereat not less than ten (10) nor more than sixty (60) days before the date of the meeting. Such notice may be delivered personally by mail or by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the Corporation.

Section 2.07 Stock List. A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in the name of such stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or if not so specified, at the place where the meeting is to be held. The stock list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 2.08 Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for him by proxy. Proxies for use at any meeting of stockholders shall be filed with the Secretary, or such other officer as the Board of Directors may from time to time determine by resolution, before or at the time of the meeting. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the secretary of the meeting who shall decide all questions touching upon the qualification of voters, the validity of the proxies, and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the chairman of the meeting, in which event such inspector or inspectors shall decide all such questions.

No proxy shall be valid after three (3) years from its date, unless the proxy provides for a longer period. Each proxy shall be revocable unless expressly provided therein to be irrevocable and coupled with an interest sufficient in law to support an irrevocable power.

Should a proxy designate two or more persons to act as proxies, unless such instrument shall provide the contrary, a majority of such persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, each proxy so attending shall be entitled to exercise such powers in respect of the same portion of the shares as he is of the proxies representing such shares.

Section 2.09 Voting; Elections; Inspectors. Unless otherwise required by law or provided in the Certificate of Incorporation, each stockholder shall have one vote for each share of stock entitled to vote which is registered in his name on the record date for the meeting. Shares registered in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaw (or comparable instrument) of such corporation may prescribe, or in the absence of such provision, as the Board of Directors (or comparable body) of such corporation may determine. Shares registered in the name of a deceased person may be voted by his executor or administrator, either in person or by proxy.

All voting, except as required by the Certificate of Incorporation or where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefor by stockholders holding a majority of the issued and outstanding stock present in person or by proxy at any meeting a stock vote shall be taken. Every stock vote shall be taken by written ballots, each of which shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. All elections of directors shall be by ballot, unless otherwise provided in the Certificate of Incorporation.

At any meeting at which a vote is taken by ballots, the chairman of the meeting may appoint one or more inspectors, each of whom shall subscribe an oath or affirmation to execute faithfully the duties of inspector at such meeting with strict impartiality and according to the best of his ability. Such inspector shall receive the ballots, count the votes and make and sign a certificate of the result thereof. The chairman of the meeting may appoint any person to serve as inspector, except no candidate for the office of director shall be appointed as an inspector.

Unless otherwise provided in the Certificate of Incorporation, cumulative voting for the election of directors shall be prohibited.

Section 2.10 Order of Business. At each meeting of the stockholders, one of the following persons, in the order in which they are listed (and in the absence of the first, the next, and so on), shall serve as chairman of the meeting: president, chairman of the board, vice presidents (in the order of their seniority if more than one), and secretary. The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to prescribe such rules, regulations, and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof, and the opening and closing of the voting polls.

Section 2.11 Treasury Stock. The Corporation shall not vote, directly or indirectly, shares of its own stock owned by it and such shares shall not be counted for quorum purposes.

Section 2.12 Action Without Meeting. Unless otherwise provided in the Certificate of Incorporation, any action permitted or required by law, the Certificate of Incorporation or these bylaws to be taken at a meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than a unanimous written consent shall be given by the Secretary to those stockholders who have not consented in writing.

**ARTICLE III  
BOARD OF DIRECTORS**

Section 3.01 Power; Number; Term of Office. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, and subject to the restrictions imposed by law or the Certificate of Incorporation, they may exercise all the powers of the Corporation.

The number of directors which shall constitute the whole Board of Directors, shall be determined from time to time by resolution of the Board of Directors (provided that no decrease in the number of directors which would have the effect of shortening the term of an incumbent director may be made by the Board of Directors). If the Board of Directors makes no such determination, the number of directors shall be the number set forth in the Certificate of Incorporation. Each director shall hold office for the term for which he is elected, and until his successor shall have been elected and qualified or until his earlier death, resignation or removal.

Unless otherwise provided in the Certificate of Incorporation, directors need not be stockholders nor residents of the State of Delaware.

Section 3.02 Quorum. Unless otherwise provided in the Certificate of Incorporation, a majority of the total number of directors shall constitute a quorum for the transaction of business of the Board of Directors and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.03 Place of Meetings; Order of Business. The directors may hold their meetings and may have an office and keep the books of the Corporation, except as otherwise provided by law, in such place or places, within or without the State of Delaware, as the Board of Directors may from time to time determine by resolution. At all meetings of the Board of Directors business shall be transacted in such order as shall from time to time be determined by the President, or by resolution of the Board of Directors.

Section 3.04 First Meeting. Each newly elected Board of Directors may hold its first meeting for the purpose of organization and the transaction of business, if a quorum is present, immediately after and at the same place as the annual meeting of the stockholders. Notice of such meeting shall not be required. At the first meeting of the Board of Directors in each year at which a quorum shall be present, held next after the annual meeting of stockholders, the Board of Directors shall proceed to the election of the officers of the Corporation.

Section 3.05 Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated from time to time by resolution of the Board of Directors. Notice of such regular meetings shall not be required.

Section 3.06 Special Meetings. Special meetings of the Board of Directors may be called by the President or, on the written request of any two directors, by the Secretary, in each case on at least twenty-four (24) hours personal, written, telegraphic, cable, telephonic or e-mail notice to each director. Such notice, or any waiver thereof pursuant to Article VIII, Section 3 hereof, need not state the purpose or purposes of such meeting, except as may otherwise be required by law or provided for in the Certificate of Incorporation or these bylaws.

Section 3.07 Removal. Any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided that, unless the Certificate of Incorporation otherwise provides, if the Board of Directors is classified, then the stockholders may effect such removal only for cause; and provided further that, if the Certificate of Incorporation expressly grants to stockholders the right to cumulate votes for the election of directors and if less than the entire board is to be removed, no director may be removed without cause if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire Board of Directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part.

Section 3.08 Vacancies; Increases in the Number of Directors. Unless otherwise provided in the Certificate of Incorporation, vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or a sole remaining director; and any director so chosen shall hold office until the next annual election and until his successor shall be duly elected and shall qualify, unless sooner displaced.

If the directors of the Corporation are divided into classes, any directors elected to fill vacancies or newly created directorships shall hold office until the next election of the class for which such directors shall have been chosen, and until their successors shall be duly elected and shall qualify.

Section 3.09 Compensation. Unless otherwise restricted by the Certificate of Incorporation, the Board of Directors shall have the authority to fix the compensation of directors.

Section 3.10 Action Without a Meeting; Telephone Conference Meeting. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee designated by the Board of Directors, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State of Delaware.

Unless otherwise restricted by the Certificate of Incorporation, subject to the requirement for notice of meetings, members of the Board of Directors, or members of any committee designated by the Board of Directors, may participate in a meeting of such Board of Directors or committee, as the case may be, by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.



Section 3.11 Approval or Ratification of Acts or Contracts by Stockholders. The Board of Directors in its discretion may submit any act or contract for approval or ratification at any annual meeting of the stockholders, or at any special meeting of the stockholders called for the purpose of considering any such act or contract, and any act or contract that shall be approved or be ratified by the vote of the stockholders holding a majority of the issued and outstanding shares of stock of the Corporation entitled to vote and present in person or by proxy at such meeting (provided that a quorum is present), shall be as valid and as binding upon the Corporation and upon all the stockholders as if it has been approved or ratified by every stockholder of the Corporation. In addition, any such act or contract may be approved or ratified by the written consent of stockholders holding a majority of the issued and outstanding shares of capital stock of the Corporation entitled to vote and such consent shall be as valid and as binding upon the Corporation and upon all the stockholders as if it had been approved or ratified by every stockholder of the Corporation.

#### **ARTICLE IV COMMITTEES**

Section 4.01 Designation; Powers. The Board of Directors may, by resolution passed by a majority of the whole board, designate one or more committees, including, if they shall so determine, an executive committee, each such committee to consist of one or more of the directors of the Corporation. Any such designated committee shall have and may exercise such of the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation as may be provided in such resolution, except that no such committee shall have the power or authority of the Board of Directors in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution of the Corporation, or amending, altering or repealing the bylaws or adopting new bylaws for the Corporation and, unless such resolution or the Certificate of Incorporation expressly so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Any such designated committee may authorize the seal of the Corporation to be affixed to all papers which may require it. In addition to the above such committee or committees shall have such other powers and limitations of authority as may be determined from time to time by resolution adopted by the Board of Directors.

Section 4.02 Procedure; Meetings; Quorum. Any committee designated pursuant to Section 1 of this Article shall choose its own chairman, shall keep regular minutes of its proceedings and report the same to the Board of Directors when requested, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules, or by resolution of such committee or resolution of the Board of Directors. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any resolution.

Section 4.03 Substitution of Members. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

**ARTICLE V  
OFFICERS**

Section 5.01 Number, Titles and Term of Office. The officers of the Corporation shall be a President, one or more Vice Presidents, a Treasurer, a Secretary and such other officers as the Board of Directors may from time to time elect or appoint. Each officer shall hold office until his successor shall be duly elected and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same person, unless the Certificate of Incorporation provides otherwise.

Section 5.02 Salaries. The salaries or other compensation of the officers and agents of the Corporation shall be fixed from time to time by the Board of Directors.

Section 5.03 Removal. Any officer or agent elected or appointed by the Board of Directors may be removed, either with or without cause, by the vote of a majority of the whole Board of Directors at a special meeting called for the purpose, or at any regular meeting of the Board of Directors, provided the notice for such meeting shall specify that the matter of any such proposed removal will be considered at the meeting but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5.04 Vacancies. Any vacancy occurring in any office of the Corporation may be filled by the Board of Directors.

Section 5.05 Powers and Duties of the President. Unless the Board of Directors otherwise determines, the President shall have the authority to agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Corporation; and, unless the Board of Directors otherwise determines, he shall preside at all meetings of the stock-holders and (should he be a director) of the Board of Directors; and he shall have such other powers and duties as designated in accordance with these bylaws and as from time to time may be assigned to him by the Board of Directors.

Section 5.06 Vice Presidents. In the absence of the President, or in the event of his inability or refusal to act, a Vice President designated by the Board of Directors shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. In the absence of a designation by the Board of Directors of a Vice President to perform the duties of the President, or in the event of his absence or inability or refusal to act, the Vice President who is present and who is senior in terms of time as a Vice President of the Corporation shall so act. The Vice Presidents shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 5.07 Treasurer. The Treasurer shall have responsibility for the custody and control of all the funds and securities of the Corporation, and he shall have such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the Board of Directors. He shall perform all acts incident to the position of Treasurer, subject to the control of the President and the Board of Directors; and he shall, if required by the Board of Directors, give such bond for the faithful discharge of his duties in such form as the Board of Directors may require.

Section 5.08 Assistant Treasurers. Each Assistant Treasurer shall have the usual powers and duties pertaining to his office, together with such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the President or the Board of Directors. The Assistant Treasurers shall exercise the powers of the Treasurer during that officer's absence or inability or refusal to act.

Section 5.09 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors, committees of directors and the stockholders, in books provided for that purpose; he shall attend to the giving and serving of all notices; he may in the name of the Corporation affix the seal of the Corporation to all contracts of the Corporation and attest the affixation of the seal of the Corporation thereto; he may sign with the other appointed officers all certificates for shares of capital stock of the Corporation; he shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to inspection of any director upon application at the office of the Corporation during business hours; he shall have such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the Board of Directors; and he shall in general perform all acts incident to the office of Secretary, subject to the control of the President and the Board of Directors.

Section 5.10 Assistant Secretaries. Each Assistant Secretary shall have the usual powers and duties pertaining to his office, together with such other powers and duties as designated in these bylaws and as from time to time may be assigned to him by the President or the Board of Directors. The Assistant Secretaries shall exercise the powers of the Secretary during that officer's absence or inability or refusal to act.

Section 5.11 Action with Respect to Securities of Other Corporations. Unless otherwise directed by the Board of Directors, the president or any vice president shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of security holders of or with respect to any action of security holders of any other corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.

**ARTICLE VI  
INDEMNIFICATION OF DIRECTORS,  
OFFICERS, EMPLOYEES AND AGENTS**

Section 6.01 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative, is or was or has agreed to become a director or officer of the Corporation or is or was serving or has agreed to serve at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director or officer or in any other capacity while serving or having agreed to serve as a director or officer, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended, (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against all expense, liability and loss (including without limitation, attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the Corporation. The right to indemnification conferred in this Article VI shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a current, former or proposed director or officer in his or her capacity as a director or officer or proposed director or officer (and not in any other capacity in which service was or is or has been agreed to be rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnified person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Section or otherwise.

Section 6.02 Indemnification of Employees and Agents. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation, individually or as a group, with the same scope and effect as the indemnification of directors and officers provided for in this Article.

Section 6.03 Right of Claimant to Bring Suit. If a written claim received by the Corporation from or on behalf of an indemnified party under this Article VI is not paid in full by the Corporation within ninety days after such receipt, the claimant may at any time thereafter

bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 6.04 Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any law (common or statutory), provision of the Certificate of Incorporation of the Corporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Section 6.05 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any person who is or was serving as a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6.06 Savings Clause. If this Article VI or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each director and officer of the Corporation, as to costs, charges and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article VI that shall not have been invalidated and to the fullest extent permitted by applicable law.

Section 6.07 Definitions. For purposes of this Article, reference to the "Corporation" shall include, in addition to the Corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger prior to (or, in the case of an entity specifically designated in a resolution of the Board of Directors, after) the adoption hereof and which, if its separate existence had continued, would have had the power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

**ARTICLE VII  
CAPITAL STOCK**

Section 7.01 Certificates of Stock. The certificates for shares of the capital stock of the Corporation shall be in such form, not inconsistent with that required by law and the Certificate of Incorporation, as shall be approved by the Board of Directors. The President or a Vice President shall cause to be issued to each stockholder one or more certificates, under the seal of the Corporation or a facsimile thereof if the Board of Directors shall have provided for such seal, and signed by the President or a Vice President and the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer certifying the number of shares (and, if the stock of the Corporation shall be divided into classes or series, the class and series of such shares) owned by such stockholder in the Corporation; provided, however, that any of or all the signatures on the certificate may be facsimile. The stock record books and the blank stock certificate books shall be kept by the Secretary, or at the office of such transfer agent or transfer agents as the Board of Directors may from time to time by resolution determine. In case any officer, transfer agent or registrar who shall have signed or whose facsimile signature or signatures shall have been placed upon any such certificate or certificates shall have ceased to be such officer, transfer agent or registrar before such certificate is issued by the Corporation, such certificate may nevertheless be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The stock certificates shall be consecutively numbered and shall be entered in the books of the Corporation as they are issued and shall exhibit the holder's name and number of shares.

Section 7.02 Transfer of Shares. The shares of stock of the Corporation shall be transferable only on the books of the Corporation by the holders thereof in person or by their duly authorized attorneys or legal representatives upon surrender and cancellation of certificates for a like number of shares. Upon surrender to the Corporation or a transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

Section 7.03 Ownership of Shares. The Corporation shall be entitled to treat the holder of record of any share or shares of capital stock of the Corporation as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

Section 7.04 Regulations Regarding Certificates. The Board of Directors shall have the power and authority to make all such rules and regulations as they may deem expedient concerning the issue, transfer and registration or the replacement of certificates for shares of capital stock of the Corporation.

Section 7.05 Lost or Destroyed Certificates. The Board of Directors may determine the conditions upon which a new certificate of stock may be issued in place of a certificate which is alleged to have been lost, stolen or destroyed; and may, in their discretion, require the owner of such certificate or his legal representative to give bond, with sufficient surety, to indemnify the Corporation and each transfer agent and registrar against any and all losses or claims which may arise by reason of the issue of a new certificate in the place of the one so lost, stolen or destroyed.

## **ARTICLE VIII MISCELLANEOUS PROVISIONS**

Section 8.01 Fiscal Year. The fiscal year of the Corporation shall be such as established from time to time by the Board of Directors.

Section 8.02 Notice and Waiver of Notice. Whenever any notice is required to be given by law, the Certificate of Incorporation or under the provisions of these bylaws, said notice shall be deemed to be sufficient if given (i) by telegraphic, cable or wireless transmission or (ii) by deposit of the same in a post office box in a sealed prepaid wrapper addressed to the person entitled thereto at his post office address, as it appears on the records of the Corporation, and such notice shall be deemed to have been given on the day of such transmission or mailing, as the case may be.

Whenever notice is required to be given by law, the Certificate of Incorporation or under any of the provisions of these bylaws, a written waiver thereof, signed by the person entitled to notice or waiver by electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or the bylaws.

Section 8.03 Resignations. Any director, member of a committee or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 8.04 Facsimile Signatures. In addition to the provisions for the use of facsimile signatures elsewhere specifically authorized in these bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors.

Section 8.05 Reliance upon Books, Reports and Records. Each director and each member of any committee designated by the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the books of account or reports made to

the Corporation by any of its officers, or by an independent certified public accountant, or by an appraiser selected with reasonable care by the Board of Directors or by any such committee, or in relying in good faith upon other records of the Corporation.

**ARTICLE IX  
AMENDMENTS**

If provided in the Certificate of Incorporation of the Corporation, the Board of Directors shall have the power to adopt, amend and repeal from time to time bylaws of the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to amend or repeal such bylaws as adopted or amended by the Board of Directors.



STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 03:00 PM 03/19/1997  
971090460 – 2730624

CERTIFICATE OF INCORPORATION

OF

PON EXPLORATIONS, INC.

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Under Section 102 of the General Corporation Law

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FIRST: The name of the corporation is: PON EXPLORATIONS, INC. (the "Corporation").

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

THIRD: The purpose for which the Corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The Corporation shall have authority to issue a total of one thousand (1,000) shares of Common Stock, par value \$.01 per share.

FIFTH: The name and mailing address of the sole incorporator are: Richard A. Anderman, Christy & Viener, 620 Fifth Avenue, New York, New York 10020.

SIXTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is authorized to adopt, amend or repeal the By-Laws of the Corporation.

SEVENTH: Election of directors of the Corporation need not be by ballot unless the By-Laws so require.

EIGHTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may

be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

NINTH: To the fullest extent that the General Corporation Law of the State of Delaware as it exists on the date hereof or as it may hereafter be amended permits the limitation or elimination of the liability of directors, no director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. No amendment to this Certificate of Incorporation, directly or indirectly by merger, consolidation or otherwise, having the effect of amending or repealing any of the provisions of this ARTICLE NINTH 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 or repeal, unless such amendment shall have the effect of further limiting or eliminating such liability.

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

THE UNDERSIGNED, being the sole incorporator named above, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, has signed this Certificate on March 18, 1997 and hereby acknowledges that it is his act and deed and that the facts stated herein are true.

/s/ Richard A. Anderman  
\_\_\_\_\_  
Richard A. Anderman  
Sole Incorporator  
Christy & Viener  
620 Fifth Avenue  
New York, New York 10020

PON EXPLORATIONS, INC.

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION

(Under Section 242 of the Delaware General Corporation Law)

THE UNDERSIGNED, being the President of Pon Explorations, Inc., a Delaware corporation (the "Corporation"), does hereby certify that:

1. The name of the Corporation is Pon Explorations, Inc.
2. The Certificate of Incorporation of the Corporation was filed with the Secretary of State of Delaware on March 19, 1997.
3. Article FIRST of the Certificate of Incorporation, setting forth the name of the Corporation, is hereby amended to read in its entirety as follows:  
FIRST: The name of the corporation (hereinafter called the "Corporation") is Z Explorations, Inc.
4. This Certificate of Amendment of the Certificate of Incorporation of the Corporation has been duly adopted in accordance with the provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.
5. This Certificate of Amendment of the Certificate of Incorporation of the Corporation shall be effective on June 8, 2005.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of June 8, 2005.

/s/ Everett L. Grant, III

Name: Everett L. Grant, III

Title: President

*State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 02:11 PM 06/08/2005  
FILED 02:11 PM 06/08/2005  
SRV 050479049 - 2730624 FILE*

CERTIFICATE OF CONVERSION  
FROM A CORPORATION TO A LIMITED LIABILITY COMPANY  
PURSUANT TO SECTION 266 OF THE DELAWARE GENERAL CORPORATION LAW

1. The name of the corporation is Z Explorations, Inc. The name under which the corporation was originally incorporated is Pon Explorations, Inc.
2. The date on which the original Certificate of Incorporation was filed with the Secretary of State is March 19, 1997.
3. The name of the limited liability company into which the corporation is herein being converted is Z Explorations, LLC.
4. The conversion has been approved in accordance with the provisions of Section 266.

By: /s/ Everett L. Grant, III  
Name: Everett L. Grant, III, President

**CERTIFICATE OF FORMATION  
OF  
Z EXPLORATIONS, LLC**

This Certificate of Formation, dated June 30, 2005, has been duly executed and is filed pursuant to Section 18-201 of the Delaware Limited Liability Company Act (the "Act") to form a limited liability company (the "Company") under the Act.

1. **Name.** The name of the Company is "Z Explorations, LLC".
2. **Registered Office; Registered Agent.** The address of the registered office required to be maintained by Section 18-104 of the Act is:

1209 Orange Street  
Wilmington, Delaware 19801

The name and address of the registered agent for service of process required to be maintained by Section 18-104 of the Act are:

The Corporation Trust Company  
1209 Orange Street  
Wilmington, Delaware 19801

**EXECUTED** as of the date first written above.

/s/ Everett L. Grant, III  
Everett L. Grant, III  
Authorized Person

**CERTIFICATE OF CONVERSION  
FROM A LIMITED LIABILITY COMPANY TO  
A CORPORATION PURSUANT TO  
SECTION 265 OF TITLE 8 OF THE DELAWARE CODE**

1. The limited liability company was formed under the laws of the State of Delaware by conversion from a Delaware corporation on June 30, 2005. The Delaware corporation was originally incorporated in the State of Delaware on March 19, 1997.
2. The name of the limited liability company immediately prior to the filing of this certificate of conversion was Z Explorations, LLC.
3. The name of the corporation as set forth in the Certificate of Incorporation is Z Explorations, Inc.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Conversion as of March 21, 2006.

**Z EXPLORATIONS, LLC**

By: Z Resources, Inc.,  
its sole member

By: /s/ Greg O'Brien  
Name: Greg O'Brien  
Title: Director

*State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 03:39 PM 03/23/2006  
FILED 03:23 PM 03/23/2006  
SRV 060279534 – 2730624 FILE*

**CERTIFICATE OF INCORPORATION**  
**OF**  
**Z EXPLORATIONS, INC.**

FIRST: The name of the corporation is Z Explorations, Inc.

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

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the corporation shall have authority to issue is one hundred (100) shares of Common Stock of the par value of (\$0.01) per share.

FIFTH: The name of the incorporator is Greg O'Brien and his mailing address is 10600 Corporate Drive, Stafford, Texas 77477.

SIXTH: The name and mailing address of the directors who shall serve until the first annual meeting of stockholders or until their successors are elected and qualified, are as follows:

<u>Name</u>	<u>Address</u>
Ray Baker	10600 Corporate Drive Stafford, Texas 77477
Greg O'Brien	10600 Corporate Drive Stafford, Texas 77477
David Senger	10600 Corporate Drive Stafford, Texas 77477

The number of directors of the corporation shall be as specified in, or determined in the manner provided in, the bylaws. Election of directors need not be by written ballot.

SEVENTH: In furtherance of, and not in limitation of, the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the corporation.

EIGHTH: Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this corporation under Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the corporation, as the case may be, and also on this corporation.

NINTH: No director of the corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of Title 8 of the Delaware Code, or (iv) for any transaction from which the director derived an improper personal benefit.

TENTH: The corporation shall have the right, subject to any express provisions or restrictions contained in the certificate of incorporation or bylaws of the corporation, from time to time, to amend the certificate of incorporation or any provision thereof in any manner now or hereafter provided by law, and all rights and powers of any kind conferred upon a director or stockholder of the corporation by the certificate of incorporation or any amendment thereof are subject to such right of the corporation.

I, the undersigned, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring that this is my act and deed and that the facts herein stated are true, and accordingly have hereunto set my hand this 21st day of March, 2006.

/s/ Greg O'Brien

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Greg O'Brien

Incorporator



State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 05:57 PM 10/24/2011  
FILED 05:39 PM 10/24/2011  
SRV 111130330 - 2730624 FILE

**STATE OF DELAWARE  
CERTIFICATE OF CHANGE  
OF REGISTERED AGENT AND/OR  
REGISTERED OFFICE**

The Board of Directors of Z Explorations, Inc., a Delaware Corporation, on this 24th day of October, A.D. 2011, do hereby resolve and order that the location of the Registered Office of this Corporation within this State be, and the same hereby is 160 Greentree Drive, Suite 101 Street, in the City of Dover, County of Kent Zip Code 19904.

The name of the Registered Agent therein and in charge thereof upon whom process against this Corporation may be served, is National Registered Agents, Inc..

The Corporation does hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Directors at a meeting held as herein stated.

**IN WITNESS WHEREOF**, said Corporation has caused this certificate to be signed by an authorized officer, the 24th day of October, A.D., 2011.

By: /s/ Victor Alfano  
Authorized Officer

Name: Victor Alfano  
Print or Type

Title: Vice President

## BYLAWS

## OF

## Z EXPLORATION, INC.

ARTICLE I - STOCKHOLDERSSection 1. Annual Meeting.

An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, on such date, and at such time as the Board of Directors shall each year fix, which date shall be within 13 months of the last annual meeting of stockholders or, if no such meeting has been held, the date of incorporation.

Section 2. Special Meetings.

Special meetings of the stockholders, for any purpose or purposes prescribed in the notice of the meeting, may be called by the Board of Directors or the chief executive officer and shall be held at such place, on such date, and at such time as they or he or she shall fix.

Section 3. Notice of Meetings.

Notice of the place, if any, date, and time of all meetings of the stockholders, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, shall be given, not less than 10 nor more than 60 days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to

notice of the meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the Delaware General Corporation Law or the Certificate of Incorporation of the Corporation).

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than 30 days after the date for which the meeting was originally noticed, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, shall be given to each stockholder in conformity herewith. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and, except as otherwise required by law, shall not be more than 60 nor less than 10 days before the date of such adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

Section 4.            Quorum.

At any meeting of the stockholders, the holders of a majority of all of the shares of the stock entitled to vote at the meeting, present in person or by proxy, shall constitute a

quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. Where a separate vote by a class or classes or series is required, a majority of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter.

If a quorum shall fail to attend any meeting, the chairman of the meeting or the holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, may adjourn the meeting to another place, if any, date, or time.

Section 5.            Organization.

Such person as the Board of Directors may have designated or, in the absence of such a person, the President of the Corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as chairman of the meeting. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman of the meeting appoints.

Section 6.            Conduct of Business.

The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

Section 7.            Proxies and Voting.

At any meeting of the stockholders, every stockholder entitled to vote may vote in person or by proxy authorized by an instrument in writing or by a transmission permitted by law

filed in accordance with the procedure established for the meeting. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this paragraph may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

The Corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Every vote taken by ballots shall be counted by an inspector or inspectors appointed by the chairman of the meeting.

All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

Section 8.            Stock List.

The officer who has charge of the stock ledger of the Corporation shall, at least 10 days before every meeting of stockholders, prepare and make a complete list of stockholders entitled to vote at any meeting of stockholders, provided, however, if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list

shall reflect the stockholders entitled to vote as of the 10th day before the meeting date, arranged in alphabetical order and showing the address of each such stockholder and the number of shares registered in his or her name. Such list shall be open to the examination of any stockholder for a period of at least 10 days prior to the meeting in the manner provided by law.

A stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine (a) the identity of the stockholders entitled to examine such stock list and to vote at the meeting and (b) the number of shares held by each of them.

Section 9. Consent of Stockholders in Lieu of Meeting.

Any action required to be taken at any annual or special meeting of stockholders of the Corporation, or any action which may be taken at any annual or special meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested.

Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered to the Corporation, a written

consent or consents signed by a sufficient number of holders to take action are delivered to the Corporation in the manner prescribed in the first paragraph of this Section. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section to the extent permitted by law. Any such consent shall be delivered in accordance with Section 228(d)(1) of the Delaware General Corporation Law.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

## ARTICLE II - BOARD OF DIRECTORS

### Section 1. Number and Term of Office.

The number of directors who shall constitute the whole Board of Directors shall be such number as the Board of Directors shall from time to time have designated, except that in the absence of any such designation, such number shall be one (1). Each director shall be elected for a term of one year and until his or her successor is elected and qualified, except as otherwise provided herein or required by law.

Whenever the authorized number of directors is increased between annual meetings of the stockholders, a majority of the directors then in office shall have the power to elect such new directors for the balance of a term and until their successors are elected and qualified. Any decrease in the authorized number of directors shall not become effective until the expiration of the term of the directors then in office unless, at the time of such decrease, there shall be vacancies on the board which are being eliminated by the decrease.

Section 2.            Vacancies.

If the office of any director becomes vacant by reason of death, resignation, disqualification, removal or other cause, a majority of the directors remaining in office, although less than a quorum, may elect a successor for the unexpired term and until his or her successor is elected and qualified.

Section 3.            Regular Meetings.

Regular meetings of the Board of Directors shall be held at such place or places, on such date or dates, and at such time or times as shall have been established by the Board of Directors and publicized among all directors. A notice of each regular meeting shall not be required.

Section 4.            Special Meetings.

Special meetings of the Board of Directors may be called by one-third of the directors then in office (rounded up to the nearest whole number) or by the President and shall be held at such place, on such date, and at such time as they or he or she shall fix. Notice of the place, date, and time of each such special meeting shall be given to each director by whom it is not waived by mailing written notice not less than five days before the meeting or by telegraphing or telexing or by facsimile or electronic transmission of the same not less than 24 hours before the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.



Section 5. Quorum.

At any meeting of the Board of Directors, a majority of the total number of the whole Board of Directors shall constitute a quorum for all purposes. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date, or time, without further notice or waiver thereof.

Section 6. Participation in Meetings By Conference Telephone.

Members of the Board of Directors, or of any committee thereof, may participate in a meeting of such Board of Directors or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

Section 7. Conduct of Business.

At any meeting of the Board of Directors, business shall be transacted in such order and manner as the Board of Directors may from time to time determine, and all matters shall be determined by the vote of a majority of the directors present, except as otherwise provided herein or required by law. Action may be taken by the Board of Directors without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 8.            Compensation of Directors.

Directors, as such, may receive, pursuant to resolution of the Board of Directors, fixed fees and other compensation for their services as directors, including, without limitation, their services as members of committees of the Board of Directors.

ARTICLE III - COMMITTEES

Section 1.            Committees of the Board of Directors.

The Board of Directors may from time to time designate committees of the Board of Directors, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board of Directors and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of any committee and any alternate member in his or her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not he or she or they constitute a quorum, may by unanimous vote appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

Section 2.            Conduct of Business.

Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings; one-third of the members shall constitute a quorum unless the committee shall consist of one or two members, in which event one member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by any committee

without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

#### ARTICLE IV - OFFICERS

##### Section 1.        Generally.

The officers of the Corporation shall consist of a President, one or more Vice Presidents, a Secretary, a Treasurer and such other officers as may from time to time be appointed by the Board of Directors. Officers shall be elected by the Board of Directors, which shall consider that subject at its first meeting after every annual meeting of stockholders. Each officer shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any number of offices may be held by the same person.

##### Section 2.        President.

The President shall be the chief executive officer of the Corporation. Subject to the provisions of these Bylaws and to the direction of the Board of Directors, he or she shall have the responsibility for the general management and control of the business and affairs of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief executive or which are delegated to him or her by the Board of Directors. He or she shall have power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized and shall have general supervision and direction of all of the other officers, employees and agents of the Corporation.

Section 3.            Vice President.

Each Vice President shall have such powers and duties as may be delegated to him or her by the Board of Directors. One Vice President shall be designated by the Board of Directors to perform the duties and exercise the powers of the President in the event of the President's absence or disability.

Section 4.            Treasurer.

The Treasurer shall have the responsibility for maintaining the financial records of the Corporation. He or she shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions and of the financial condition of the Corporation. The Treasurer shall also perform such other duties as the Board of Directors may from time to time prescribe.

Section 5.            Secretary.

The Secretary shall issue all authorized notices for, and shall keep minutes of, all meetings of the stockholders and the Board of Directors. He or she shall have charge of the corporate books and shall perform such other duties as the Board of Directors may from time to time prescribe.

Section 6.            Delegation of Authority.

The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

Section 7.            Removal.

Any officer of the Corporation may be removed at any time, with or without cause, by the Board of Directors.

Section 8.            Action with Respect to Securities of Other Corporations.

Unless otherwise directed by the Board of Directors, the President or any officer of the Corporation authorized by the President shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of stockholders of or with respect to any action of stockholders of any other corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.

ARTICLE V - STOCK

Section 1.            Certificates of Stock.

Each holder of stock represented by certificates shall be entitled to a certificate signed by, or in the name of the Corporation by, the President or a Vice President, and by the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer, certifying the number of shares owned by him or her. Any or all of the signatures on the certificate may be by facsimile.

Section 2.            Transfers of Stock.

Transfers of stock shall be made only upon the transfer books of the Corporation kept at an office of the Corporation or by transfer agents designated to transfer shares of the stock of the Corporation. Except where a certificate is issued in accordance with Section 4 of Article V of these Bylaws, an outstanding certificate, if one has been issued, for the number of shares involved shall be surrendered for cancellation before a new certificate, if any, is issued therefor.

Section 3.            Record Date.

In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may, except as otherwise required by law, fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section 3 at the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for

the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

In order that the Corporation may determine the stockholders entitled to consent to corporate action without a meeting, (including by telegram, cablegram or other electronic transmission as permitted by law), the Board of Directors may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall be not more than ten days after the date upon which the resolution fixing the record date is adopted. If no record date has been fixed by the Board of Directors and no prior action by the Board of Directors is required by the Delaware General Corporation Law, the record date shall be the first date on which a consent setting forth the action taken or proposed to be taken is delivered to the Corporation in the manner prescribed by Article I, Section 9 hereof. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by the Delaware General Corporation Law with respect to the proposed action by consent of the stockholders without a meeting, the record date for determining stockholders entitled to consent to corporate action without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 4. Lost, Stolen or Destroyed Certificates.

In the event of the loss, theft or destruction of any certificate of stock, another may be issued in its place pursuant to such regulations as the Board of Directors may establish concerning proof of such loss, theft or destruction and concerning the giving of a satisfactory bond or bonds of indemnity.

Section 5.            Regulations.

The issue, transfer, conversion and registration of certificates of stock shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE VI - NOTICES

Section 1.            Notices.

If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

Section 2.            Waivers.

A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver.

ARTICLE VII - MISCELLANEOUS

Section 1.            Facsimile Signatures.

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.



Section 2.            Corporate Seal.

The Board of Directors may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary. If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by an Assistant Secretary or Assistant Treasurer.

Section 3.            Reliance upon Books, Reports and Records.

Each director, each member of any committee designated by the Board of Directors, and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 4.            Fiscal Year.

The fiscal year of the Corporation shall be as fixed by the Board of Directors.

Section 5.            Time Periods.

In applying any provision of these Bylaws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE VIII - INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Right to Indemnification.

Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee, or in any other capacity while serving as a director, officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by Delaware law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith; provided, however, that, except as provided in Section 3 of this ARTICLE VIII with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

Section 2. Right to Advancement of Expenses.

In addition to the right to indemnification conferred in Section 1 of this ARTICLE VIII, an indemnitee shall also have the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the Delaware General Corporation Law requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Section 2 or otherwise.

Section 3. Right of Indemnitee to Bring Suit.

If a claim under Section 1 or 2 of this ARTICLE VIII is not paid in full by the Corporation within 60 days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. To the fullest extent permitted by law, if successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to

enforce a right to an advancement of expenses) it shall be a defense that, and (ii) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this ARTICLE VIII or otherwise shall be on the Corporation.

Section 4.            Non-Exclusivity of Rights.

The rights to indemnification and to the advancement of expenses conferred in this ARTICLE VIII shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Corporation's Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

Section 5. Insurance.

The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6. Indemnification of Employees and Agents of the Corporation.

The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

Section 7. Nature of Rights.

The rights conferred upon indemnitees in this ARTICLE VIII shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this ARTICLE VIII that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit, eliminate, or impair any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, alteration or repeal.

ARTICLE IX - AMENDMENTS

These Bylaws may be amended or repealed by the Board of Directors at any meeting or by the stockholders at any meeting.

STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 03:00 PM 03/19/1997  
971090486 - 2730633

CERTIFICATE OF INCORPORATION

OF

PON RESOURCES, INC.

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Under Section 102 of the General Corporation Law

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FIRST: The name of the corporation is: PON RESOURCES, INC. (the "Corporation").

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

THIRD: The purpose for which the Corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The Corporation shall have authority to issue a total of one thousand (1,000) shares of Common Stock, par value \$.01 per share.

FIFTH: The name and mailing address of the sole incorporator are: Richard A. Anderman, Christy & Viener, 620 Fifth Avenue, New York, New York 10020.

SIXTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is authorized to adopt, amend or repeal the By-Laws of the Corporation.

SEVENTH: Election of directors of the Corporation need not be by ballot unless the By-Laws so require.

EIGHTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may

be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

NINTH: To the fullest extent that the General Corporation Law of the State of Delaware as it exists on the date hereof or as it may hereafter be amended permits the limitation or elimination of the liability of directors, no director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. No amendment to this Certificate of Incorporation, directly or indirectly by merger, consolidation or otherwise, having the effect of amending or repealing any of the provisions of this ARTICLE NINTH 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 or repeal, unless such amendment shall have the effect of further limiting or eliminating such liability.

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

THE UNDERSIGNED, being the sole incorporator named above, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, has signed this Certificate on March 18, 1997 and hereby acknowledges that it is his act and deed and that the facts stated herein are true.

/s/ Richard A. Anderman  
\_\_\_\_\_  
Richard A. Anderman  
Sole Incorporator  
Christy & Viener  
620 Fifth Avenue  
New York, New York 10020

PON RESOURCES, INC.

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION

(Under Section 242 of the Delaware General Corporation Law)

THE UNDERSIGNED, being the President of Pon Resources, Inc., a Delaware corporation (the "Corporation"), does hereby certify that:

1. The name of the Corporation is Pon Resources, Inc.
2. The Certificate of Incorporation of the Corporation was filed with the Secretary of State of Delaware on March 19, 1997.
3. Article FIRST of the Certificate of Incorporation, setting forth the name of the Corporation, is hereby amended to read in its entirety as follows:  
FIRST: The name of the corporation (hereinafter called the "Corporation") is Z Resources, Inc.
4. This Certificate of Amendment of the Certificate of Incorporation of the Corporation has been duly adopted in accordance with the provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.
5. This Certificate of Amendment of the Certificate of Incorporation of the Corporation shall be effective on June 8, 2005.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of June 3, 2005.

/s/ Everett L. Grant, III

Name: Everett L. Grant, III

Title: President

*State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 01:51 PM 06/08/2005  
FILED 01:51 PM 06/08/2005  
SRV 050478911 - 2730633 FILE*



**STATE OF DELAWARE  
CERTIFICATE OF CHANGE  
OF REGISTERED AGENT AND/OR  
REGISTERED OFFICE**

The Board of Directors of Z Resources, Inc., a Delaware Corporation, on this 24th day of October, A.D. 2011, do hereby resolve and order that the location of the Registered Office of this Corporation within this State be, and the same hereby is 160 Greentree Drive, Suite 101 Street, in the City of Dover, County of Kent Zip Code 19904.

The name of the Registered Agent therein and in charge thereof upon whom process against this Corporation may be served, is National Registered Agents, Inc.

The Corporation does hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Directors at a meeting held as herein stated.

**IN WITNESS WHEREOF**, said Corporation has caused this certificate to be signed by an authorized officer, the 24th day of October, A.D., 2011.

By: /s/ Victor Alfano  
Authorized Office

Name: Victor Alfano  
Print or Type

Title: Vice President

## PON RESOURCES, INC.

## BYLAWS

## ARTICLE I

## OFFICES

Section 1.1. Corporation's Office in Delaware; Mailing Address for Service of Process. The location of the Corporation's registered office within the State of Delaware, the name of the registered agent of the Corporation at such office and the post office address to which the Secretary of State of the State of Delaware shall mail a copy of process in any action or proceeding against the Corporation that may be served upon him, shall be in each case as stated in the Certificate of Incorporation.

Section 1.2. Other Offices. The Corporation may have other offices within or without the State of Delaware.

## ARTICLE II

## STOCKHOLDERS MEETINGS

Section 2.1. Annual Meetings. An annual meeting of stockholders to elect directors and transact such other business as may properly be presented to the meeting shall be held at such date and time as the Board of Directors from time to time shall fix.

Section 2.2. Special Meetings. A special meeting of stockholders may be called at any time and for any purpose by the Board of Directors and shall be called by the Board of Directors or by the Secretary upon receipt of a written request to do so specifying the matter or matters (which must be appropriate for action at a special meeting) proposed to be presented to the meeting and signed by holders of record of a majority of the shares outstanding and entitled to act on such matter or matters on the date of receipt of such request. At any special meeting only such business may be transacted as is related to the purpose or purposes set forth in the notice of such meeting required by Section 2.4.

Section 2.3. Place of Meetings. Each annual meeting shall be held at such place, within or without the State of Delaware, as the Board of Directors shall fix. Each special meeting shall be held at such place, within or without the State of Delaware, as the person or persons calling the meeting shall fix. If no place is so fixed, the meeting shall be held at the registered office of the Corporation in the State of Delaware.

Section 2.4. Notice of Meetings.

(a) Written notice of a meeting of stockholders shall be given, personally or by mail, not less than ten nor more than sixty days before the meeting (unless otherwise required by law) to each stockholder entitled to vote at such meeting. Such notice shall state the place, date and hour of the meeting and, if it relates to a special meeting, the purpose or purposes for which the meeting is called and the name or names of the persons who have directed the calling of the meeting. If mailed, such notice shall be deemed to be duly given when deposited in the United States mail, first class postage prepaid, directed to each stockholder at his address as it appears on the records of the Corporation.

(b) When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. If, after adjournment, the Board of Directors fixes a new record date for the adjourned meeting or if the adjournment is for more than thirty days, however, a notice of the adjourned meeting shall be given to each stockholder who is entitled to vote at such adjourned meeting. At any adjourned meeting, any business may be transacted that might have been transacted on the original date of the meeting.

Section 2.5. Quorum. Except as otherwise required by law or the Certificate of Incorporation, the presence in person or by proxy of the holders of record of a majority of the issued and outstanding shares entitled to vote at a meeting shall be necessary and sufficient to constitute a quorum for the transaction of business at the meeting. In the absence of a quorum, the holders of record present or represented by proxy at such meeting may vote to adjourn the meeting from time to time, in which case the provisions of Section 2.4(b) shall apply. A quorum once present to organize a meeting is not broken by the subsequent withdrawal of any stockholder.

Section 2.6. Presiding Officer and Secretary at Meeting. Each meeting of stockholders shall be presided over by the Chairman of the Board, if any, or if no such officer has been elected or, if elected, in his absence, by the Vice Chairman. If there is more than one Vice Chairman, the highest ranking Vice Chairman as designated by the Board of Directors in accordance with Section 4.8 or, in his absence, the next highest ranking Vice Chairman so designated who is present at the meeting. If no Vice Chairman has been elected or, if elected, is present at the meeting, then the chairman of the meeting shall be the President or a person designated in writing by the President. If the President fails to so designate any person, then the meeting shall be presided over by the Executive Vice President or, if there is more than one Executive Vice President, the highest ranking Executive Vice President as designated by the Board of Directors in accordance with Section 4.10 or, in his absence, the next highest ranking Executive Vice President so designated who is present at the meeting. If no Executive Vice President is present at the meeting, then a chairman of the meeting shall be chosen by a plurality vote of the stockholders present, in

person or by proxy, at the meeting. The Secretary or, in his absence, an Assistant Secretary shall act as secretary of the meeting, or, if no such officer is present, a secretary of the meeting shall be designated by the person presiding at the meeting.

Section 2.7. Voting. Except as otherwise provided in these Bylaws or in the Certificate of Incorporation:

- (a) each stockholder of record shall be entitled at every meeting of stockholders to one vote, in person or by proxy, for each share of stock entitled to vote held by him;
- (b) directors shall be elected by a plurality vote;
- (c) each other matter properly presented to any meeting shall be decided by a majority of the votes cast thereon;
- (d) the holders of any and all classes or series of Common Stock and Preferred Stock who are entitled to vote shall vote as one class; and
- (e) election of directors and the vote on any other matter before a meeting shall be by ballot only if so ordered by the person presiding at the meeting or if so requested by any stockholder present, in person or by proxy, at the meeting and entitled to vote in such election or on such matter, as the case may be.

Section 2.8. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Every proxy must be executed in writing by the stockholder or by his attorney-in-fact. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally.

Section 2.9. Consent of Stockholders in Lieu of Meeting. Unless otherwise provided by the Certificate of Incorporation or by law, any action which is required or permitted to be taken at any meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a written consent setting forth the action so taken is signed by the holders of record of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

Section 2.10. Record Date and Stockholder List.

(a) For the purpose of determining the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, to express consent to any corporate action in writing without a meeting, to receive payment of any dividend or other distribution or allotment of any rights, to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix in advance a date as the record date for any such determination of stockholders. Such date shall not be more than sixty nor less than ten days before the date of the meeting, nor more than sixty days prior to any other action. If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed; and the record date for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(b) When a determination of stockholders of record entitled to notice of or to vote at any meeting of stockholders has been made, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date for the adjourned meeting.

(c) The Secretary shall, or shall cause any other person who has charge of the stock ledger of the Corporation to, prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order and showing the address, and number of the shares registered in the name, of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

ARTICLE III

DIRECTORS

Section 3.1. Number; Term of Office; Qualifications; Vacancies. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors that shall constitute the entire Board of Directors shall be not less than one nor more than fifteen, and within such range the number of directors at any time shall be determined by resolution of the Board of Directors or the stockholders. The initial number of directors shall be three. No decrease in the number of directors shall shorten the term of any incumbent director. No director need be a stockholder of the Corporation.

Each director shall be elected at each annual meeting of stockholders to hold office, subject to Sections 3.2 and 3.3, until the next annual meeting of stockholders and until his successor has been elected and qualified. Newly created directorships resulting from an increase in the number of directors or vacancies occurring in the Board of Directors for any reason may be filled by vote of a majority of the directors then in office, although less than a quorum exists, or by a sole remaining director, at any meeting of the Board of Directors. A director elected to fill a vacancy shall hold office until the next meeting of stockholders at which the election of directors is in the regular order of business and until his successor is duly elected and has been qualified or until his earlier death, resignation or removal. If at any time, by reason of any cause, there are no directors in office, then any officer, stockholder or any executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the Certificate of Incorporation or the Bylaws, or may apply to the Delaware district court for a decree summarily ordering an election as provided in the Delaware Corporation Law.

Section 3.2. Resignation. Any director of the Corporation may resign at any time by giving written notice of such resignation to the Board of Directors, the Chairman of the Board, if any, the President or the Secretary of the Corporation. Any such resignation shall be effective at the time specified therein or, if no time is specified, upon receipt thereof by the Board of Directors or one of the aforementioned officers, and, unless specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.3. Removal. A director may be removed, with or without cause, by the holders of a majority of the issued and outstanding shares of the Corporation then entitled to vote at an election of directors.

Section 3.4. Regular and Annual Meeting; Notice. Regular meetings of the Board of Directors shall be held at such time and at such place, within or without the State of Delaware, as the Board of Directors may from time to time prescribe. No notice need be

given of any regular meeting and a notice, if given, need not specify the purposes thereof. A meeting of the Board of Directors may be held without notice immediately after, and at the same place as, an annual meeting of stockholders.

Section 3.5. Special Meeting; Notice. A special meeting of the Board of Directors may be called at any time by the Board of Directors, the Chairman of the Board, if any, or the President and shall be called by any one of them or by the Secretary upon receipt of a written request to do so specifying the matter or matters (which must be appropriate for action at such a meeting) proposed to be presented at the meeting and signed by at least two directors. Any such meeting shall be held at such time and at such place, within or without the State of Delaware, as stated in the request or as shall be determined by the body or person calling such meeting. Notice of such meeting stating the date, hour and place thereof shall be given either (a) personally, at least 24 hours before the time fixed for the meeting, (b) by deposit of the notice in the United States mails, first class postage prepaid, at least two days before the day fixed for the meeting, addressed to each director at his address as it appears on the Corporation's records or at such other address as the director may have furnished the Corporation for that purpose, or (c) by delivery of the notice (appropriately addressed for dispatch) by telegraph, telephone, cable or radio, at least 24 hours before the time fixed for the meeting.

Section 3.6. Presiding Officer and Secretary at Meeting. Each meeting of the Board of Directors shall be presided over by the Chairman of the Board, if any, or, if no such officer has been elected, by the President, if a director, or, if neither is present, by such member of the Board of Directors as shall be chosen by the meeting. The Secretary, or, in his absence an Assistant Secretary, shall act as secretary of the meeting, or if no such officer is present, a secretary of the meeting shall be designated by the person presiding over the meeting.

Section 3.7. Quorum; Voting. Except as otherwise provided in these Bylaws or in the Certificate of Incorporation, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting thereof, and each matter acted on at any meeting shall be decided by the vote of a majority of the Board of Directors present and constituting a quorum. In the absence of a quorum, a majority of those present (or if only one is present, then that one) may adjourn the meeting, without notice other than announcement at the meeting, until such time as a quorum is present. In the absence of any such announcement, notice of any adjournment shall be given in accordance with the provisions of Section 3.5.

Section 3.8. Meeting by Telephone. Members of the Board of Directors or of any committee thereof may participate in meetings of the Board of Directors or of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

Section 3.9. Action Without Meeting. Unless otherwise provided by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or of such committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of the proceedings of the Board of Directors or of such committee.

Section 3.10. Executive and Other Committees.

(a) The Board of Directors, by resolution adopted by a majority of the entire Board of Directors, may designate from among its members an executive committee and other committees, each consisting of two or more directors and each of which, to the extent provided in the resolution, may exercise all of the powers and shall have all the authority of the Board of Directors, except that no such committee shall have power or authority with respect to the following matters:

- (i) amending the Certificate of Incorporation, adopting an agreement of merger or consolidation or recommending to the stockholders the (A) sale, lease or exchange of all or substantially all of the Corporation's property and assets or (B) a dissolution of the Corporation or a revocation of such dissolution;
- (ii) the filling of vacancies in the Board of Directors or in any committee;
- (iii) the fixing of compensation of any director for serving on the Board of Directors or on any committee thereof;
- (iv) the amendment or repeal of the Bylaws or the adoption of new Bylaws; and
- (v) the declaration of any dividends, whether of cash, stock or property, and the issuance of any securities of the Corporation.

(b) The Board of Directors may designate one or more directors as alternate members of any such committee, who may replace any absent or disqualified member or members at any meeting thereof.

(c) Each such committee shall serve at the pleasure of the Board of Directors.

Section 3.11 Compensation. Unless authorized by a resolution of the Board of Directors, no director shall receive any stated salary for his services as a director or as a member of a committee but shall receive such sum, if any, as may from time to time be fixed



by the Board of Directors for attendance at each meeting of the Board of Directors or of a committee thereof. He may also be reimbursed for his expenses in attending any meeting. Any director who serves the Corporation in any capacity other than as a member of the Board of Directors or of a committee, however, may receive compensation therefor.

## ARTICLE IV

### OFFICERS

Section 4.1. Election; Qualification. The officers of the Corporation shall be a President, and a Secretary, each of whom shall be elected by the Board of Directors. The Board of Directors may elect such other officers, including a Chairman of the Board, and one or more Vice Chairmen, Executive Vice Presidents, Vice Presidents, Treasurers or Assistant Secretaries or Assistant Treasurers, as it may from time to time determine. Two or more offices may be held by the same person.

Section 4.2. Term of Office. Each officer shall hold office from the time of his election and qualification to the time of the earlier of the election and qualification of his successor, his death or resignation or his removal pursuant to Section 4.4. Officers shall be elected annually by the Board of Directors at a meeting thereof to be held immediately after each annual meeting of stockholders.

Section 4.3. Resignation. Any officer of the Corporation may resign at any time by giving written notice of such resignation to the Board of Directors, the President or the Secretary of the Corporation. Any such resignation shall be effective at the time specified therein or, if no time is specified, upon receipt thereof by the Board of Directors or one of the above-named officers; and, unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.4. Removal. Any officer of the Corporation may be removed at any time, with or without cause, by the vote of a majority of the entire Board of Directors.

Section 4.5. Vacancies. Any vacancy occurring in any office of the Corporation, however caused, may be filled by the Board of Directors.

Section 4.6. Compensation. The compensation of each officer shall be as determined by the Board of Directors from time to time.

Section 4.7. Chairman of the Board. The Chairman of the Board, if elected, shall preside at all meetings of stockholders and of the Board of Directors, shall be entitled to vote upon all questions at meetings of the Board of Directors, and shall perform all such other duties as are prescribed by the Board of Directors, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.8. Vice Chairman. The Board of Directors may elect or the Chairman of the Board may appoint from the members of the Board of Directors one or more Vice Chairmen of the Board, who shall have such duties as are prescribed by the Board of Directors, subject to the direction of the Board of Directors and the Executive Committee, if any. If no Chairman of the Board has been elected, or if elected, during his absence or inability to act, the Vice Chairman shall exercise the powers and perform the duties thereof, subject to the direction of the Board of Directors and the Executive Committee, if any. If there is more than one Vice Chairman, they shall be ranked in an order designated by the Board of Directors, or failing such designation, the Vice Chairman will be deemed to be ranked by the Board of Directors in the order of their election as set forth in the resolution or resolutions of the Board of Directors providing for their election.

Section 4.9. President. The President shall have charge of the business and affairs of the Corporation, subject to the right of the Board of Directors to confer specified powers on other officers and, generally, to the direction of the Board of Directors and the Executive Committee, if any. If no Chairman or Vice Chairman of the Board has been elected, or if elected, during their respective absences or inability to act, the President shall exercise the powers and perform the duties of the Chairman of the Board, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.10. Executive Vice President. Each Executive Vice President, if elected, shall have such powers and duties as generally pertain to the office of Executive Vice President and as the Board of Directors may from time to time prescribe. If there is more than one Executive Vice President, they shall be ranked in an order designated by the Board of Directors, or failing such designation, the Executive Vice Presidents will be deemed to be ranked by the Board of Directors in the order of their election as set forth in the resolution or resolutions of the Board of Directors providing for their election. During the absence of the President or his inability to act, the Executive Vice President, or, if there is more than one Executive Vice President, the highest ranking Executive Vice President designated or deemed designated by the Board of Directors, shall exercise the powers and perform the duties of the President, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.11. Vice President. Each Vice President, if elected, shall have such powers and duties as generally pertain to the office of Vice President and as the Board of Directors may from time to time prescribe. If there is more than one Vice President, they shall be ranked in an order designated by the Board of Directors, or failing such designation, the Vice Presidents will be deemed to be ranked by the Board of Directors in the order of their election as set forth in the resolution or resolutions of the Board of Directors providing for their election.

Section 4.12. Secretary and Assistant Secretaries. The Secretary shall attend and keep the minutes of all meetings of stockholders and of the Board of Directors and any

committees thereof. He shall be custodian of the corporate seal and shall affix it or cause it be affixed to such instruments as require such seal and attest the same and shall exercise the powers and perform the duties incident to the office of Secretary, subject to the direction of the Board of Directors and the Executive Committee, if any. The Assistant Secretary (or in the event there is more than one, the Assistant Secretaries in the order designated by the Board of Directors, or in the absence of such designation, then in the order of their election), shall, in the absence of the Secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Secretary and perform such other duties and exercise such other powers as the Board of Directors may from time to time prescribe, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.13. Treasurer and Assistant Treasurers. The Treasurer shall have care of all funds and securities of the Corporation and shall exercise the powers and perform the duties incident to the office of Treasurer, subject to the direction of the Board of Directors and the Executive Committee, if any. The Assistant Treasurer (or if there is more than one, the Assistant Treasurers in the order designated by the Board of Directors, or in the absence of such designation, then in the order of their election) shall, in the absence of the Treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Treasurer and perform such other duties and exercise such other powers as the Board of Directors may from time to time prescribe, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.14. Other Officers. Each other officer of the Corporation shall exercise the powers and perform the duties incident to his office, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.15. Bond. Any officer of the Corporation, if so required by the Board of Directors, shall give to the Corporation such bond or other security for the faithful performance of his duties and the return to the Corporation of any books, records, accounts, monies and other property whatsoever in his possession or control which are the property of the Corporation, as may be satisfactory to the Board of Directors or the Executive Committee, if any.

## ARTICLE V

### INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 5.1. The Corporation shall indemnify, subject to the provisions of Section 5.4 of this Article V, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer,

employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 5.2. The Corporation shall indemnify, subject to the provisions of Section 5.4 of this Article V, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court deems proper.

Section 5.3. To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 5.1 and 5.2 of this Article V, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 5.4. Any indemnification under Sections 5.1 and 5.2 of this Article V (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in such Sections 5.1 and 5.2. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion or (c) by the stockholders.

Section 5.5. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it ultimately shall be determined that he is entitled to be indemnified by the Corporation as authorized in this Article V.

Section 5.6. The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-Law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 5.7. 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 is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article V.

Section 5.8. For purposes of this Article V, references to “the Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

Section 5.9. For purposes of this Article V, references to “other enterprises” shall include employee benefit plans; references to “fines” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “serving at the request of the corporation” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or

beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” as referred to in this Article V.

## ARTICLE VI

### CAPITAL STOCK

Section 6.1. Certificates Representing Shares. The shares of the Corporation shall be represented by certificates in such form consistent with law and the Certificate of Incorporation as the Board of Directors may from time to time prescribe and be signed by or in the name of the Corporation by the Chairman of the Board, if any, or the President or any Executive Vice President or Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary. Any and all of the signatures on a certificate may be a facsimile. In the event that any officer, transfer agent or registrar who has signed, or whose facsimile signature has been placed upon, a certificate ceases to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue. In the event that the Corporation issues one or more series of Preferred Stock, the relative designations, powers, preferences, rights, qualifications, limitations and restrictions of the shares of each such series shall be set forth in full or summarized on the face or back of the certificates for the shares of each such series.

Section 6.2. Transfer of Shares. Shares of the Corporation shall be transferable on the books of the Corporation, pursuant to applicable law and such rules as the Board of Directors may prescribe from time to time, only by the holder of record thereof or by his duly authorized attorney, upon the surrender of the certificate or certificates for such shares to the Secretary or an Assistant Secretary duly endorsed with proper evidence of authority to transfer. The Corporation shall issue a new certificate or certificates for the shares surrendered to the person or persons entitled thereto, cancel the old certificate or certificates and shall record such transfer on the books of the Corporation.

Section 6.3. Transfer Agent; Registrar. The Board of Directors may appoint one or more transfer agents and one or more registrars and may require each certificate representing shares to bear the signature of a transfer agent, of a registrar or of both.

Section 6.4. Holders of Record. Prior to due presentment for registration of transfer, the Corporation may treat the holder of record of a share as the owner thereof in fact, exclusively entitled to vote, and receive dividends on, such share and otherwise entitled to all the rights and powers of an owner thereof, notwithstanding notice to the contrary.

Section 6.5. Lost, Destroyed or Stolen Certificates. The Corporation shall issue a new certificate for shares to replace a certificate theretofore issued by it and alleged to have been lost, stolen or destroyed, if the owner or his legal representative (a) requests a new certificate before the Corporation has notice that the certificate has been acquired by a bona fide purchaser, (b) files with the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of any such new certificate and (c) satisfies such other terms and conditions as the Board of Directors may from time to time require, including, without limitation, the owner's furnishing an affidavit to the Board of Directors to the effect that such certificate has been lost, stolen or destroyed.

Section 6.6. Dividends. Except as otherwise provided by the Certificate of Incorporation or by law, the Board of Directors, at any regular or special meeting thereof, may declare dividends upon the issued and outstanding shares of the stock of the Corporation. Dividends may be paid in cash, in property or in shares of the stock of the Corporation, subject to the provisions of the Certificate of Incorporation and of law.

Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sums as the Board of Directors, from time to time, in its absolute discretion, deems advisable as a reserve or reserves to meet contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors deems to be in the best interest of the Corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1. Inspection of Records. Any stockholder of record, in person or by attorney or other agent, shall upon written demand under oath stating the purpose thereof, have the right, during usual business hours, to inspect for any proper purpose the Corporation's stock ledger, a list of its stockholders, and its other books and records, and to make copies or extracts therefrom. A proper purpose means a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the Corporation at its registered office in the State of Delaware or at its principal place of business.

Section 7.2. Form of Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs

or any other information storage device, provided that the records so kept can be converted into clearly legible written form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 7.3. Waiver of Notice. Whenever notice is required to be given under the Certificate of Incorporation or the Bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders or of the Board of Directors or any committee thereof need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or the Bylaws.

Section 7.4. Fiscal Year. The fiscal year of the Corporation shall start on such date as the Board of Directors shall from time to time prescribe.

Section 7.5. Corporate Seal. The corporate seal shall be in such form consistent with law as the Board of Directors may from time to time prescribe. The Board of Directors may give general authority to any officer in addition to the Secretary to affix the corporate seal and to attest the affixing by his signature.

## ARTICLE VIII

### AMENDMENT OF BYLAWS

Section 8.1. Amendment. The Board of Directors is authorized to adopt, alter, amend or repeal the Bylaws of the Corporation, but any Bylaws adopted, altered, amended or repealed by the Board of Directors may be altered, amended or repealed by the stockholders of the Corporation.



## CERTIFICATE OF INCORPORATION

OF

ZIDELL VALVE CORPORATION

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Under Section 102 of the General Corporation Law

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FIRST: The name of the corporation is: ZIDELL VALVE CORPORATION (the "Corporation").

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

THIRD: The purpose for which the Corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The Corporation shall have authority to issue a total of one thousand (1,000) shares of Common Stock, par value \$.01 per share.

FIFTH: The name and mailing address of the sole incorporator are: Richard A. Anderman, Christy & Viener, 620 Fifth Avenue, New York, New York 10020.

SIXTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is authorized to adopt, amend or repeal the By-Laws of the Corporation.

SEVENTH: Election of directors of the Corporation need not be by ballot unless the By-Laws so require.

EIGHTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of

creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

NINTH: To the fullest extent that the General Corporation Law of the State of Delaware as it exists on the date hereof or as it may hereafter be amended permits the limitation or elimination of the liability of directors, no director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. No amendment to this Certificate of Incorporation, directly or indirectly by merger, consolidation or otherwise, having the effect of amending or repealing any of the provisions of this ARTICLE NINTH 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 or repeal, unless such amendment shall have the effect of further limiting or eliminating such liability.

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

THE UNDERSIGNED, being the sole incorporator named above, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, has signed this Certificate on March 18, 1997 and hereby acknowledges that it is his act and deed and that the facts stated herein are true.



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Richard A. Anderman  
Sole Incorporator  
Christy & Viener  
620 Fifth Avenue  
New York, New York 10020

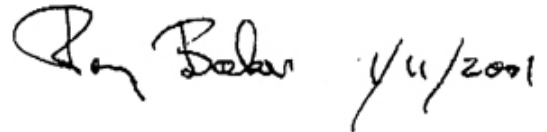
ZIDELL VALVE CORPORATION  
CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION

(Under Section 242 of the General Corporation Law)

THE UNDERSIGNED, being the President of Zidell Valve Corporation, a Delaware corporation (the "Corporation"), does hereby certify that:

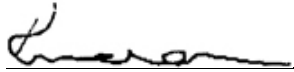
1. The name of the Corporation is Zidell Valve Corporation.
2. The Certificate of Incorporation of the Corporation was filed with the Secretary of State of Delaware on March 19, 1997.
3. Article FIRST of the Certificate of Incorporation, setting forth the name of the Corporation, is hereby amended to read in its entirety as follows:  
FIRST:       The name of the corporation (hereinafter called the "Corporation") is Zy-Tech Global Industries, Inc.
4. This Certificate of Amendment of the Certificate of Incorporation of the Corporation has been duly adopted in accordance with the provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.
5. This Certificate of Amendment of the Certificate of Incorporation of the Corporation shall be effective on February 1, 2001.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of January 11, 2001.



Ray Baker  
President

ATTEST:



Richard A. Anderman  
Assistant Secretary

**STATE OF DELAWARE  
CERTIFICATE OF CHANGE  
OF REGISTERED AGENT AND/OR  
REGISTERED OFFICE**

The Board of Directors of Zy-Tech Global Industries, Inc., a Delaware Corporation, on this 24th day of October, A.D. 2011, do hereby resolve and order that the location of the Registered Office of this Corporation within this State be, and the same hereby is 160 Greentree Drive, Suite 101 Street, in the City of Dover, County of Kent Zip Code 19904.

The name of the Registered Agent therein and in charge thereof upon whom process against this Corporation may be served, is National Registered Agents, Inc.

The Corporation does hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Directors at a meeting held as herein stated.

**IN WITNESS WHEREOF**, said Corporation has caused this certificate to be signed by an authorized officer, the 24th day of October, A.D., 2011.



By: \_\_\_\_\_  
Authorized Officer

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Vice President

## ZIDELL VALVE CORPORATION

## BYLAWS

## ARTICLE I

## OFFICES

Section 1.1. Corporation's Office in Delaware; Mailing Address for Service of Process. The location of the Corporation's registered office within the State of Delaware, the name of the registered agent of the Corporation at such office and the post office address to which the Secretary of State of the State of Delaware shall mail a copy of process in any action or proceeding against the Corporation that may be served upon him, shall be in each case as stated in the Certificate of Incorporation.

Section 1.2. Other Offices. The Corporation may have other offices within or without the State of Delaware.

## ARTICLE II

## STOCKHOLDERS MEETINGS

Section 2.1. Annual Meetings. An annual meeting of stockholders to elect directors and transact such other business as may properly be presented to the meeting shall be held at such date and time as the Board of Directors from time to time shall fix.

Section 2.2. Special Meetings. A special meeting of stockholders may be called at any time and for any purpose by the Board of Directors and shall be called by the Board of Directors or by the Secretary upon receipt of a written request to do so specifying the matter or matters (which must be appropriate for action at a special meeting) proposed to be presented to the meeting and signed by holders of record of a majority of the shares outstanding and entitled to act on such matter or matters on the date of receipt of such request. At any special meeting only such business may be transacted as is related to the purpose or purposes set forth in the notice of such meeting required by Section 2.4.

Section 2.3. Place of Meetings. Each annual meeting shall be held at such place, within or without the State of Delaware, as the Board of Directors shall fix. Each special meeting shall be held at such place, within or without the State of Delaware, as the person or persons calling the meeting shall fix. If no place is so fixed, the meeting shall be held at the registered office of the Corporation in the State of Delaware.

Section 2.4. Notice of Meetings.

(a) Written notice of a meeting of stockholders shall be given, personally or by mail, not less than ten nor more than sixty days before the meeting (unless otherwise required by law) to each stockholder entitled to vote at such meeting. Such notice shall state the place, date and hour of the meeting and, if it relates to a special meeting, the purpose or purposes for which the meeting is called and the name or names of the persons who have directed the calling of the meeting. If mailed, such notice shall be deemed to be duly given when deposited in the United States mail, first class postage prepaid, directed to each stockholder at his address as it appears on the records of the Corporation.

(b) When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. If, after adjournment, the Board of Directors fixes a new record date for the adjourned meeting or if the adjournment is for more than thirty days, however, a notice of the adjourned meeting shall be given to each stockholder who is entitled to vote at such adjourned meeting. At any adjourned meeting, any business may be transacted that might have been transacted on the original date of the meeting.

Section 2.5. Quorum. Except as otherwise required by law or the Certificate of Incorporation, the presence in person or by proxy of the holders of record of a majority of the issued and outstanding shares entitled to vote at a meeting shall be necessary and sufficient to constitute a quorum for the transaction of business at the meeting. In the absence of a quorum, the holders of record present or represented by proxy at such meeting may vote to adjourn the meeting from time to time, in which case the provisions of Section 2.4(b) shall apply. A quorum once present to organize a meeting is not broken by the subsequent withdrawal of any stockholder.

Section 2.6. Presiding Officer and Secretary at Meeting. Each meeting of stockholders shall be presided over by the Chairman of the Board, if any, or if no such officer has been elected or, if elected, in his absence, by the Vice Chairman. If there is more than one Vice Chairman, the highest ranking Vice Chairman as designated by the Board of Directors in accordance with Section 4.8 or, in his absence, the next highest ranking Vice Chairman so designated who is present at the meeting. If no Vice Chairman has been elected or, if elected, is present at the meeting, then the chairman of the meeting shall be the President or a person designated in writing by the President. If the President fails to so designate any person, then the meeting shall be presided over by the Executive Vice President or, if there is more than one Executive Vice President, the highest ranking Executive Vice President as designated by the Board of Directors in accordance with Section 4.10 or, in his absence, the next highest ranking Executive Vice President so designated who is present at the meeting. If no Executive Vice President is present at the meeting, then a chairman of the meeting shall be chosen by a plurality vote of the stockholders present, in

person or by proxy, at the meeting. The Secretary or, in his absence, an Assistant Secretary shall act as secretary of the meeting, or, if no such officer is present, a secretary of the meeting shall be designated by the person presiding at the meeting.

Section 2.7. Voting. Except as otherwise provided in these Bylaws or in the Certificate of Incorporation:

- (a) each stockholder of record shall be entitled at every meeting of stockholders to one vote, in person or by proxy, for each share of stock entitled to vote held by him;
- (b) directors shall be elected by a plurality vote;
- (c) each other matter properly presented to any meeting shall be decided by a majority of the votes cast thereon;
- (d) the holders of any and all classes or series of Common Stock and Preferred Stock who are entitled to vote shall vote as one class; and
- (e) election of directors and the vote on any other matter before a meeting shall be by ballot only if so ordered by the person presiding at the meeting or if so requested by any stockholder present, in person or by proxy, at the meeting and entitled to vote in such election or on such matter, as the case may be.

Section 2.8. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Every proxy must be executed in writing by the stockholder or by his attorney-in-fact. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally.

Section 2.9. Consent of Stockholders in Lieu of Meeting. Unless otherwise provided by the Certificate of Incorporation or by law, any action which is required or permitted to be taken at any meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a written consent setting forth the action so taken is signed by the holders of record of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

Section 2.10. Record Date and Stockholder List.

(a) For the purpose of determining the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, to express consent to any corporate action in writing without a meeting, to receive payment of any dividend or other distribution or allotment of any rights, to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix in advance a date as the record date for any such determination of stockholders. Such date shall not be more than sixty nor less than ten days before the date of the meeting, nor more than sixty days prior to any other action. If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed; and the record date for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(b) When a determination of stockholders of record entitled to notice of or to vote at any meeting of stockholders has been made, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date for the adjourned meeting.

(c) The Secretary shall, or shall cause any other person who has charge of the stock ledger of the Corporation to, prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order and showing the address, and number of the shares registered in the name, of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.



ARTICLE III

DIRECTORS

Section 3.1. Number; Term of Office; Qualifications; Vacancies. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors that shall constitute the entire Board of Directors shall be not less than one nor more than fifteen, and within such range the number of directors at any time shall be determined by resolution of the Board of Directors or the stockholders. The initial number of directors shall be three. No decrease in the number of directors shall shorten the term of any incumbent director. No director need be a stockholder of the Corporation.

Each director shall be elected at each annual meeting of stockholders to hold office, subject to Sections 3.2 and 3.3, until the next annual meeting of stockholders and until his successor has been elected and qualified. Newly created directorships resulting from an increase in the number of directors or vacancies occurring in the Board of Directors for any reason may be filled by vote of a majority of the directors then in office, although less than a quorum exists, or by a sole remaining director, at any meeting of the Board of Directors. A director elected to fill a vacancy shall hold office until the next meeting of stockholders at which the election of directors is in the regular order of business and until his successor is duly elected and has been qualified or until his earlier death, resignation or removal. If at any time, by reason of any cause, there are no directors in office, then any officer, stockholder or any executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the Certificate of Incorporation or the Bylaws, or may apply to the Delaware district court for a decree summarily ordering an election as provided in the Delaware Corporation Law.

Section 3.2. Resignation. Any director of the Corporation may resign at any time by giving written notice of such resignation to the Board of Directors, the Chairman of the Board, if any, the President or the Secretary of the Corporation. Any such resignation shall be effective at the time specified therein or, if no time is specified, upon receipt thereof by the Board of Directors or one of the aforementioned officers, and, unless specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.3. Removal. A director may be removed, with or without cause, by the holders of a majority of the issued and outstanding shares of the Corporation then entitled to vote at an election of directors.

Section 3.4. Regular and Annual Meeting; Notice. Regular meetings of the Board of Directors shall be held at such time and at such place, within or without the State of Delaware, as the Board of Directors may from time to time prescribe. No notice need be

given of any regular meeting and a notice, if given, need not specify the purposes thereof. A meeting of the Board of Directors may be held without notice immediately after, and at the same place as, an annual meeting of stockholders.

Section 3.5. Special Meeting; Notice. A special meeting of the Board of Directors may be called at any time by the Board of Directors, the Chairman of the Board, if any, or the President and shall be called by any one of them or by the Secretary upon receipt of a written request to do so specifying the matter or matters (which must be appropriate for action at such a meeting) proposed to be presented at the meeting and signed by at least two directors. Any such meeting shall be held at such time and at such place, within or without the State of Delaware, as stated in the request or as shall be determined by the body or person calling such meeting. Notice of such meeting stating the date, hour and place thereof shall be given either (a) personally, at least 24 hours before the time fixed for the meeting, (b) by deposit of the notice in the United States mails, first class postage prepaid, at least two days before the day fixed for the meeting, addressed to each director at his address as it appears on the Corporation's records or at such other address as the director may have furnished the Corporation for that purpose, or (c) by delivery of the notice (appropriately addressed for dispatch) by telegraph, telephone, cable or radio, at least 24 hours before the time fixed for the meeting.

Section 3.6. Presiding Officer and Secretary at Meeting. Each meeting of the Board of Directors shall be presided over by the Chairman of the Board, if any, or, if no such officer has been elected, by the President, if a director, or, if neither is present, by such member of the Board of Directors as shall be chosen by the meeting. The Secretary, or, in his absence an Assistant Secretary, shall act as secretary of the meeting, or if no such officer is present, a secretary of the meeting shall be designated by the person presiding over the meeting.

Section 3.7. Quorum; Voting. Except as otherwise provided in these Bylaws or in the Certificate of Incorporation, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting thereof, and each matter acted on at any meeting shall be decided by the vote of a majority of the Board of Directors present and constituting a quorum. In the absence of a quorum, a majority of those present (or if only one is present, then that one) may adjourn the meeting, without notice other than announcement at the meeting, until such time as a quorum is present. In the absence of any such announcement, notice of any adjournment shall be given in accordance with the provisions of Section 3.5.

Section 3.8. Meeting by Telephone. Members of the Board of Directors or of any committee thereof may participate in meetings of the Board of Directors or of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

Section 3.9. Action Without Meeting. Unless otherwise provided by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or of such committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of the proceedings of the Board of Directors or of such committee.

Section 3.10. Executive and Other Committees.

(a) The Board of Directors, by resolution adopted by a majority of the entire Board of Directors, may designate from among its members an executive committee and other committees, each consisting of two or more directors and each of which, to the extent provided in the resolution, may exercise all of the powers and shall have all the authority of the Board of Directors, except that no such committee shall have power or authority with respect to the following matters:

(i) amending the Certificate of Incorporation, adopting an agreement of merger or consolidation or recommending to the stockholders the (A) sale, lease or exchange of all or substantially all of the Corporation's property and assets or (B) a dissolution of the Corporation or a revocation of such dissolution;

(ii) the filling of vacancies in the Board of Directors or in any committee;

(iii) the fixing of compensation of any director for serving on the Board of Directors or on any committee thereof;

(iv) the amendment or repeal of the Bylaws or the adoption of new Bylaws; and

(v) the declaration of any dividends, whether of cash, stock or property, and the issuance of any securities of the Corporation.

(b) The Board of Directors may designate one or more directors as alternate members of any such committee, who may replace any absent or disqualified member or members at any meeting thereof.

(c) Each such committee shall serve at the pleasure of the Board of Directors.

Section 3.11 Compensation. Unless authorized by a resolution of the Board of Directors, no director shall receive any stated salary for his services as a director or as a member of a committee but shall receive such sum, if any, as may from time to time be fixed

by the Board of Directors for attendance at each meeting of the Board of Directors or of a committee thereof. He may also be reimbursed for his expenses in attending any meeting. Any director who serves the Corporation in any capacity other than as a member of the Board of Directors or of a committee, however, may receive compensation therefor.

## ARTICLE IV

### OFFICERS

Section 4.1. Election; Qualification. The officers of the Corporation shall be a President, and a Secretary, each of whom shall be elected by the Board of Directors. The Board of Directors may elect such other officers, including a Chairman of the Board, and one or more Vice Chairmen, Executive Vice Presidents, Vice Presidents, Treasurers or Assistant Secretaries or Assistant Treasurers, as it may from time to time determine. Two or more offices may be held by the same person.

Section 4.2. Term of Office. Each officer shall hold office from the time of his election and qualification to the time of the earlier of the election and qualification of his successor, his death or resignation or his removal pursuant to Section 4.4. Officers shall be elected annually by the Board of Directors at a meeting thereof to be held immediately after each annual meeting of stockholders.

Section 4.3. Resignation. Any officer of the Corporation may resign at any time by giving written notice of such resignation to the Board of Directors, the President or the Secretary of the Corporation. Any such resignation shall be effective at the time specified therein or, if no time is specified, upon receipt thereof by the Board of Directors or one of the above-named officers; and, unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.4. Removal. Any officer of the Corporation may be removed at any time, with or without cause, by the vote of a majority of the entire Board of Directors.

Section 4.5. Vacancies. Any vacancy occurring in any office of the Corporation, however caused, may be filled by the Board of Directors.

Section 4.6. Compensation. The compensation of each officer shall be as determined by the Board of Directors from time to time.

Section 4.7. Chairman of the Board. The Chairman of the Board, if elected, shall preside at all meetings of stockholders and of the Board of Directors, shall be entitled to vote upon all questions at meetings of the Board of Directors, and shall perform all such other duties as are prescribed by the Board of Directors, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.8. Vice Chairman. The Board of Directors may elect or the Chairman of the Board may appoint from the members of the Board of Directors one or more Vice Chairmen of the Board, who shall have such duties as are prescribed by the Board of Directors, subject to the direction of the Board of Directors and the Executive Committee, if any. If no Chairman of the Board has been elected, or if elected, during his absence or inability to act, the Vice Chairman shall exercise the powers and perform the duties thereof, subject to the direction of the Board of Directors and the Executive Committee, if any. If there is more than one Vice Chairman, they shall be ranked in an order designated by the Board of Directors, or failing such designation, the Vice Chairman will be deemed to be ranked by the Board of Directors in the order of their election as set forth in the resolution or resolutions of the Board of Directors providing for their election.

Section 4.9. President. The President shall have charge of the business and affairs of the Corporation, subject to the right of the Board of Directors to confer specified powers on other officers and, generally, to the direction of the Board of Directors and the Executive Committee, if any. If no Chairman or Vice Chairman of the Board has been elected, or if elected, during their respective absences or inability to act, the President shall exercise the powers and perform the duties of the Chairman of the Board, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.10. Executive Vice President. Each Executive Vice President, if elected, shall have such powers and duties as generally pertain to the office of Executive Vice President and as the Board of Directors may from time to time prescribe. If there is more than one Executive Vice President, they shall be ranked in an order designated by the Board of Directors, or failing such designation, the Executive Vice Presidents will be deemed to be ranked by the Board of Directors in the order of their election as set forth in the resolution or resolutions of the Board of Directors providing for their election. During the absence of the President or his inability to act, the Executive Vice President, or, if there is more than one Executive Vice President, the highest ranking Executive Vice President designated or deemed designated by the Board of Directors, shall exercise the powers and perform the duties of the President, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.11. Vice President. Each Vice President, if elected, shall have such powers and duties as generally pertain to the office of Vice President and as the Board of Directors may from time to time prescribe. If there is more than one Vice President, they shall be ranked in an order designated by the Board of Directors, or failing such designation, the Vice Presidents will be deemed to be ranked by the Board of Directors in the order of their election as set forth in the resolution or resolutions of the Board of Directors providing for their election.

Section 4.12. Secretary and Assistant Secretaries. The Secretary shall attend and keep the minutes of all meetings of stockholders and of the Board of Directors and any

committees thereof. He shall be custodian of the corporate seal and shall affix it or cause it be affixed to such instruments as require such seal and attest the same and shall exercise the powers and perform the duties incident to the office of Secretary, subject to the direction of the Board of Directors and the Executive Committee, if any. The Assistant Secretary (or in the event there is more than one, the Assistant Secretaries in the order designated by the Board of Directors, or in the absence of such designation, then in the order of their election), shall, in the absence of the Secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Secretary and perform such other duties and exercise such other powers as the Board of Directors may from time to time prescribe, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.13. Treasurer and Assistant Treasurers. The Treasurer shall have care of all funds and securities of the Corporation and shall exercise the powers and perform the duties incident to the office of Treasurer, subject to the direction of the Board of Directors and the Executive Committee, if any. The Assistant Treasurer (or if there is more than one, the Assistant Treasurers in the order designated by the Board of Directors, or in the absence of such designation, then in the order of their election) shall, in the absence of the Treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Treasurer and perform such other duties and exercise such other powers as the Board of Directors may from time to time prescribe, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.14. Other Officers. Each other officer of the Corporation shall exercise the powers and perform the duties incident to his office, subject to the direction of the Board of Directors and the Executive Committee, if any.

Section 4.15. Bond. Any officer of the Corporation, if so required by the Board of Directors, shall give to the Corporation such bond or other security for the faithful performance of his duties and the return to the Corporation of any books, records, accounts, monies and other property whatsoever in his possession or control which are the property of the Corporation, as may be satisfactory to the Board of Directors or the Executive Committee, if any.

## ARTICLE V

### INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 5.1. The Corporation shall indemnify, subject to the provisions of Section 5.4 of this Article V, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer,

employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 5.2. The Corporation shall indemnify, subject to the provisions of Section 5.4 of this Article V, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court deems proper.

Section 5.3. To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 5.1 and 5.2 of this Article V, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 5.4. Any indemnification under Sections 5.1 and 5.2 of this Article V (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in such Sections 5.1 and 5.2. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion or (c) by the stockholders.

Section 5.5. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it ultimately shall be determined that he is entitled to be indemnified by the Corporation as authorized in this Article V.

Section 5.6. The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-Law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 5.7. 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 is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article V.

Section 5.8. For purposes of this Article V, references to “the Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

Section 5.9. For purposes of this Article V, references to “other enterprises” shall include employee benefit plans; references to “fines” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “serving at the request of the corporation” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or



beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” as referred to in this Article V.

## ARTICLE VI

### CAPITAL STOCK

Section 6.1. Certificates Representing Shares. The shares of the Corporation shall be represented by certificates in such form consistent with law and the Certificate of Incorporation as the Board of Directors may from time to time prescribe and be signed by or in the name of the Corporation by the Chairman of the Board, if any, or the President or any Executive Vice President or Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary. Any and all of the signatures on a certificate may be a facsimile. In the event that any officer, transfer agent or registrar who has signed, or whose facsimile signature has been placed upon, a certificate ceases to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue. In the event that the Corporation issues one or more series of Preferred Stock, the relative designations, powers, preferences, rights, qualifications, limitations and restrictions of the shares of each such series shall be set forth in full or summarized on the face or back of the certificates for the shares of each such series.

Section 6.2. Transfer of Shares. Shares of the Corporation shall be transferable on the books of the Corporation, pursuant to applicable law and such rules as the Board of Directors may prescribe from time to time, only by the holder of record thereof or by his duly authorized attorney, upon the surrender of the certificate or certificates for such shares to the Secretary or an Assistant Secretary duly endorsed with proper evidence of authority to transfer. The Corporation shall issue a new certificate or certificates for the shares surrendered to the person or persons entitled thereto, cancel the old certificate or certificates and shall record such transfer on the books of the Corporation.

Section 6.3. Transfer Agent; Registrar. The Board of Directors any appoint one or more transfer agents and one or more registrars and may require each certificate representing shares to bear the signature of a transfer agent, of a registrar or of both.

Section 6.4. Holders of Record. Prior to due presentment for registration of transfer, the Corporation may treat the holder of record of a share as the owner thereof in fact, exclusively entitled to vote, and receive dividends on, such share and otherwise entitled to all the rights and powers of an owner thereof, notwithstanding notice to the contrary.

Section 6.5. Lost, Destroyed or Stolen Certificates. The Corporation shall issue a new certificate for shares to replace a certificate theretofore issued by it and alleged to have been lost, stolen or destroyed, if the owner or his legal representative (a) requests a new certificate before the Corporation has notice that the certificate has been acquired by a bona fide purchaser, (b) files with the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of any such new certificate and (c) satisfies such other terms and conditions as the Board of Directors may from time to time require, including, without limitation, the owner's furnishing an affidavit to the Board of Directors to the effect that such certificate has been lost, stolen or destroyed.

Section 6.6. Dividends. Except as otherwise provided by the Certificate of Incorporation or by law, the Board of Directors, at any regular or special meeting thereof, may declare dividends upon the issued and outstanding shares of the stock of the Corporation. Dividends may be paid in cash, in property or in shares of the stock of the Corporation, subject to the provisions of the Certificate of Incorporation and of law.

Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sums as the Board of Directors, from time to time, in its absolute discretion, deems advisable as a reserve or reserves to meet contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors deems to be in the best interest of the Corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1. Inspection of Records. Any stockholder of record, in person or by attorney or other agent, shall upon written demand under oath stating the purpose thereof, have the right, during usual business hours, to inspect for any proper purpose the Corporation's stock ledger, a list of its stockholders, and its other books and records, and to make copies or extracts therefrom. A proper purpose means a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the Corporation at its registered office in the State of Delaware or at its principal place of business.

Section 7.2. Form of Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, micro-photographs

or any other information storage device, provided that the records so kept can be converted into clearly legible written form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 7.3. Waiver of Notice. Whenever notice is required to be given under the Certificate of Incorporation or the Bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders or of the Board of Directors or any committee thereof need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or the Bylaws.

Section 7.4. Fiscal Year. The fiscal year of the Corporation shall start on such date as the Board of Directors shall from time to time prescribe.

Section 7.5. Corporate Seal. The corporate seal shall be in such form consistent with law as the Board of Directors may from time to time prescribe. The Board of Directors may give general authority to any officer in addition to the Secretary to affix the corporate seal and to attest the affixing by his signature.

## ARTICLE VIII

### AMENDMENT OF BYLAWS

Section 8.1. Amendment. The Board of Directors is authorized to adopt, alter, amend or repeal the Bylaws of the Corporation, but any Bylaws adopted, altered, amended or repealed by the Board of Directors may be altered, amended or repealed by the stockholders of the Corporation.

**BAKER BOTTS** LLPONE SHELL PLAZA  
910 LOUISIANA  
HOUSTON, TEXAS  
77002-4995TEL +1  
713.229.1234  
FAX +1  
713.229.1522  
BakerBotts.comAUSTIN  
BEIJING  
BRUSSELS  
DALLAS  
DUBAI  
HONG KONG  
HOUSTONLONDON  
MOSCOW  
NEW YORK  
PALO ALTO  
SAN FRANCISCO  
WASHINGTON  
RIYADH

August 23, 2016

Forum Energy Technologies, Inc.  
920 Memorial City Way, Suite 1000  
Houston, Texas 77024

Ladies and Gentlemen:

As set forth in the Registration Statement on Form S-3 (the "Registration Statement") to be filed by Forum Energy Technologies, Inc., a Delaware corporation (the "Company"), and certain of the Company's subsidiaries identified in the Registration Statement (each, a "Subsidiary Guarantor" and collectively, the "Subsidiary Guarantors") on or about the date hereof with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Act"), relating to the offering of securities that may be issued and sold by the Company and the Subsidiary Guarantors from time to time pursuant to Rule 415 under the Act, certain legal matters in connection with such securities are being passed upon for you by us. Such securities include (i) common stock, par value \$0.01 per share (the "Common Stock"), of the Company, (ii) preferred stock, par value \$0.01 per share (the "Preferred Stock"), of the Company, (iii) senior debt securities (the "Senior Debt Securities") of the Company, (iv) subordinated debt securities (the "Subordinated Debt Securities" and, together with the Senior Debt Securities, the "Debt Securities") of the Company, (v) warrants to purchase any combination of Common Stock, Preferred Stock, Debt Securities or other securities (the "Warrants") and (vi) guarantees of the Debt Securities (the "Guarantees") by one or more of the Subsidiary Guarantors. The Common Stock, Preferred Stock, Debt Securities and Warrants are collectively referred to herein as the "Company Securities," and the Company Securities and Guarantees are collectively referred to herein as the "Securities." At your request, this opinion is being furnished to you for filing as Exhibit 5.1 to the Registration Statement.

Each series of Senior Debt Securities is to be issued pursuant to (i) an indenture to be entered into between the Company and the trustee thereunder (the "Senior Base Indenture") or (ii) the Indenture, dated October 2, 2013, between the Company and Wells Fargo Bank, National Association, as trustee (the "Existing Senior Indenture"). Each series of Subordinated Debt Securities is to be issued pursuant to an indenture to be entered into between the Company and the trustee thereunder (the "Subordinated Base Indenture" and, together with the Senior Base Indenture and the Existing Senior Indenture, the "Indentures"). Each of the Senior Base Indenture and the Subordinated Base Indenture is to be supplemented, in connection with the issuance of each such series, by a supplemental indenture, officers' certificate or other writing thereunder establishing the form and terms of such series.

In our capacity as your counsel in the connection referred to above, we have examined originals, or copies certified or otherwise identified, of (i) the Company's Third Amended and Restated Certificate of Incorporation and Second Amended and Restated Bylaws, each as amended to date (the "Company Charter Documents"), (ii) the certificate of incorporation, certificate of formation, certificate of limited partnership, bylaws, limited liability company

agreement, limited partnership agreement or other formation documents and agreements, as applicable, of each Subsidiary Guarantor, each as amended to date (the "Guarantor Charter Documents"), (iii) the forms of Senior Base Indenture and Subordinated Base Indenture (each in the form to be filed as an exhibit to the Registration Statement), (iv) the Existing Senior Indenture and (v) corporate records of the Company, including minute books of the Company, as furnished to us by the Company, certificates of public officials and of representatives of the Company, statutes and other instruments and documents as a basis for the opinions hereinafter expressed. In giving such opinions below, we have relied, to the extent we deemed proper, without independent investigation, upon certificates, statements and other representations of officers and other representatives of the Company and of governmental and public officials with respect to the accuracy and completeness of the material factual matters contained therein or covered thereby.

In making our examination, we have assumed that all signatures on documents examined by us are genuine, all documents submitted to us as originals are authentic and complete, all documents submitted to us as certified or photostatic copies are true and correct copies of the originals of such documents and such original copies are authentic and complete.

In connection with this opinion, we also have assumed that:

(a) the Registration Statement and any amendments thereto (including post-effective amendments) will have become effective under the Act;

(b) a prospectus supplement will have been prepared and filed with the Commission describing the Securities offered thereby;

(c) all Securities will be offered, issued and sold in compliance with applicable securities laws and in the manner stated in the Registration Statement and the applicable prospectus supplement;

(d) the Board of Directors of the Company or, to the extent permitted by the General Corporation Law of the State of Delaware and the Company Charter Documents, a duly constituted and acting committee thereof (such Board of Directors or committee thereof being hereinafter referred to as the "Company Board") will have taken all necessary corporate action to authorize the issuance of the Company Securities and any other Company Securities issuable on the conversion, exchange, redemption or exercise thereof, and to authorize the terms of the offering and sale of such Company Securities and related matters;

(e) the Board of Directors or other governing body of each Subsidiary Guarantor or, to the extent permitted by applicable law and the Guarantor Charter Documents of such Subsidiary Guarantor, a duly constituted and acting committee thereof will have taken all necessary corporate or other organizational action to authorize the issuance of the Guarantee to be issued by such Subsidiary Guarantor, and to authorize the terms of the offering and sale of such Guarantee and related matters;

(f) a definitive purchase, underwriting or similar agreement with respect to any Securities being offered will have been duly authorized and validly executed and delivered by the Company and the other parties thereto (the "Purchase Agreement");

(g) any securities issuable upon conversion, exchange, redemption or exercise of any Securities being offered will have been duly authorized, created and, if appropriate, reserved for issuance upon such conversion, exchange, redemption or exercise;

(h) all Securities, and any certificates in respect thereof, will be delivered either (i) in accordance with the provisions of the applicable Purchase Agreement approved by the Company Board upon payment of the consideration therefor provided for therein or (ii) upon conversion, exchange, redemption or exercise of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange, redemption or exercise as approved by the Company Board, for the consideration approved by the Company Board;

(i) in the case of shares of Common Stock or Preferred Stock, certificates representing such shares will have been duly executed, countersigned, registered and delivered, or if uncertificated, valid book-entry notations will have been made in the share register of the Company, in each case in accordance with the provisions of the Company Charter Documents; there will be sufficient shares of Common Stock or Preferred Stock authorized under the Company Charter Documents and not otherwise issued or reserved for issuance; and the purchase price therefor payable to the Company or, if such shares are issuable on the conversion, exchange, redemption or exercise of another Security, the consideration payable to the Company for such conversion, exchange, redemption or exercise will not be less than the par value of such shares, in the case of shares of Common Stock, or the purchase price or consideration, as the case may be, as approved by the Company Board with respect to such issuance, in the case of shares of Preferred Stock;

(j) in the case of shares of Preferred Stock of any series, the Company Board will have taken all necessary corporate action to designate and establish the terms of such series and will have caused a certificate of designations respecting such series to be prepared and filed with the Secretary of State of the State of Delaware;

(k) in the case of Warrants, the Company Board will have taken all necessary corporate action to authorize the creation of and the terms of such Warrants and the issuance of the Securities to be issued pursuant thereto and to approve the warrant agreement relating thereto; such warrant agreement will have been duly executed and delivered by the Company and the warrant agent thereunder appointed by the Company; such Warrants and such warrant agreement will be governed by New York law and will not include any provision that is unenforceable; and such Warrants or certificates representing such Warrants will have been duly executed, countersigned, registered and delivered in accordance with the provisions of such warrant agreement;

(l) in the case of a series of Senior Debt Securities or Subordinated Debt Securities to be issued pursuant to the Senior Base Indenture or the Subordinated Base Indenture:

- an indenture substantially in the form of the Senior Base Indenture or the Subordinated Base Indenture, as the case may be, will have been duly authorized, executed and delivered by the Company and the Subsidiary Guarantors, as applicable, and the trustee thereunder, and will not include any provision that is unenforceable;
- the Company Board will have taken all necessary corporate action to designate and establish the terms of such series of Debt Securities in accordance with the terms of the Indenture under which such Debt Securities will be issued, and such Debt Securities will not include any provision that is unenforceable;
- the Indenture under which such Debt Securities will be issued will have become qualified under the Trust Indenture Act of 1939, as amended; and
- forms of Debt Securities and, if applicable the related Guarantees, complying with the terms of the Indenture under which such Debt Securities and, if applicable, the related Guarantees, will be issued and evidencing such Debt Securities (which may include the related Guarantees) will have been duly executed, authenticated, issued and delivered in accordance with the provisions of such Indenture.

On the basis of the foregoing, and subject to the assumptions, limitations and qualifications set forth herein, we are of the opinion that:

1. The shares of Common Stock and Preferred Stock included in the Securities will, when issued, have been duly authorized by all necessary corporate action on the part of the Company and validly issued and will be fully paid and nonassessable.

2. The Warrants included in the Securities will, when issued, have been duly authorized by all necessary corporate action on the part of the Company and validly issued and will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except to the extent that the enforceability thereof may be limited by (a) applicable bankruptcy, insolvency, fraudulent conveyance or transfer, reorganization, moratorium or similar laws of general applicability relating to or affecting creditors' rights and remedies and to general principles of equity (whether considered in a proceeding in equity or at law) and (b) public policy, applicable law relating to fiduciary duties and indemnification and contribution and an implied covenant of good faith and fair dealing.

3. The Debt Securities and any Guarantees included in the Securities will, when issued, constitute legal, valid and binding obligations of the Company and the Subsidiary Guarantors, respectively, enforceable against the Company and the Subsidiary Guarantors, respectively, in accordance with their terms, except to the extent that the enforceability thereof may be limited by

(a) applicable bankruptcy, insolvency, fraudulent conveyance or transfer, reorganization, moratorium or similar laws of general applicability relating to or affecting creditors' rights and remedies and to general principles of equity (whether considered in a proceeding in equity or at law) and (b) public policy, applicable law relating to fiduciary duties and indemnification and contribution and an implied covenant of good faith and fair dealing.

The opinions set forth above are limited in all respects to matters of the laws of the State of New York, the General Corporation Law of the State of Delaware and applicable federal law. We hereby consent to the filing of this opinion of counsel as Exhibit 5.1 to the Registration Statement. We also consent to the reference to our Firm under the heading "Legal Matters" in the prospectus forming a part of the Registration Statement. In giving this consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Baker Botts L.L.P.



**Computation of Ratio of Earnings to Fixed Charges and  
Combined Fixed Charges and Preferred Stock Dividends to Earnings  
(unaudited)**

	Years Ended December 31,					Six Months Ended June 30,
	2011	2012	2013	2014	2015	2016
	(in thousands, except ratios)					
<b>Earnings</b>						
Profit before taxes	\$140,703	\$222,795	\$186,082	\$242,522	\$(134,323)	\$ (83,003)
Fixed charges	<u>23,198</u>	<u>21,738</u>	<u>24,703</u>	<u>36,778</u>	<u>36,927</u>	<u>16,943</u>
Earnings	<u>\$163,901</u>	<u>\$244,533</u>	<u>\$210,785</u>	<u>\$279,300</u>	<u>\$ (97,396)</u>	<u>\$ (66,060)</u>
<b>Fixed Charges</b>						
Interest expense	\$ 19,532	\$ 16,372	\$ 18,370	\$ 29,847	\$ 29,945	\$ 13,918
Estimated interest expense on rental items	<u>3,666</u>	<u>5,366</u>	<u>6,333</u>	<u>6,931</u>	<u>6,982</u>	<u>3,025</u>
Fixed charges	<u>\$ 23,198</u>	<u>\$ 21,738</u>	<u>\$ 24,703</u>	<u>\$ 36,778</u>	<u>\$ 36,927</u>	<u>\$ 16,943</u>
<b>Preferred stock dividends</b>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>—</u>	<u>—</u>	<u>—</u>
<b>Ratio of Earnings to Fixed Charges</b>	<u>7.1x</u>	<u>11.2x</u>	<u>8.5x</u>	<u>7.6x</u>	<u>**<sup>(1)</sup></u>	<u>**<sup>(1)</sup></u>
<b>Ratio of Combined Fixed Charges and Preferred Stock Dividends to Earnings</b>	<u>7.1x</u>	<u>11.2x</u>	<u>8.5x</u>	<u>7.6x</u>	<u>**<sup>(1)</sup></u>	<u>**<sup>(1)</sup></u>

(1) Earnings were inadequate to cover fixed charges. The coverage deficiency for the six months ended June 30, 2016 and year ended December 31, 2015 was \$83 million and \$134 million, respectively.

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated February 26, 2016 except with respect to our opinion on the consolidated financial statements insofar as it relates to the change in reportable segments in Notes 3,4,7, and 15, relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in Forum Energy Technologies, Inc.'s Current Report on Form 8-K dated August 23, 2016. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP  
Houston, Texas  
August 23, 2016

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM T-1**

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**STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939  
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE**

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- CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO SECTION 305(b) (2)**
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**WELLS FARGO BANK, NATIONAL ASSOCIATION**  
(Exact name of trustee as specified in its charter)

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**A National Banking Association**  
(Jurisdiction of incorporation or  
organization if not a U.S. national bank)

**94-1347393**  
(I.R.S. Employer  
Identification No.)

**101 North Phillips Avenue Sioux Falls, South Dakota**  
(Address of principal executive offices)

**57104**  
(Zip code)

**Wells Fargo & Company**  
**Law Department, Trust Section**  
**MAC N9305-175**  
**Sixth Street and Marquette Avenue, 17<sup>th</sup> Floor**  
**Minneapolis, Minnesota 55479**  
**(612) 667-4608**  
(Name, address and telephone number of agent for service)

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**FORUM ENERGY TECHNOLOGIES, INC.\***  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**920 Memorial City Way, Suite 1000**  
**Houston, Texas 77024**  
**(281) 949-2500**  
(Address, including zip code, and telephone number,  
including area code, of registrant's  
principal executive offices)

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**61-1488595**  
(I.R.S. Employer  
Identification No.)

**6.250% Senior Notes due 2021**

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The following are co-registrants that may guarantee the debt securities:

<b>Exact name of registrant as specified in its charter*</b>	<b>State or other jurisdiction of incorporation or organization</b>	<b>I.R.S. Employer Identification No.</b>
FET Holdings LLC	Delaware	45-4081088
Forum Energy Services, Inc.	Delaware	90-0778250
Forum Global Holdings, LLC	Delaware	47-1635417
Forum Global Tubing LLC	Delaware	98-0534972
Forum Global Tubing LP	Delaware	98-0534974
Forum International Holdings, Inc.	Delaware	03-0585021
Forum US, Inc.	Delaware	26-3748750
Global Flow Technologies, Inc.	Delaware	56-2520657
TGH (US), Inc.	Delaware	02-0797615
Z Explorations, Inc.	Texas	93-0789523
Z Resources, Inc.	Texas	93-0450795
Zy-Tech Global Industries, Inc.	Delaware	93-0919913

\* Except for Global Flow Technologies, Inc., Z Explorations, Inc., Z Resources, Inc. and Zy-Tech Global Industries, Inc., the address for the principal executive office of each registrant is 920 Memorial City Way, Suite 1000, Houston, Texas 77024 and the telephone number for each registrant's principal executive office is (281) 949-2500. The address for the principal executive office of each of Global Flow Technologies, Inc., Z Explorations, Inc., Z Resources, Inc. and Zy-Tech Global Industries, Inc. is 12735 Dairy Ashford, Stafford, Texas 77477 and the telephone number for each of these entities is (281) 637-2000.

Item 1. General Information. Furnish the following information as to the trustee:

- (a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency  
Treasury Department  
Washington, D.C.

Federal Deposit Insurance Corporation  
Washington, D.C.

Federal Reserve Bank of San Francisco  
San Francisco, California 94120

- (b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor. If the obligor is an affiliate of the trustee, describe each such affiliation.

None with respect to the trustee.

No responses are included for Items 3-14 of this Form T-1 because the obligor is not in default as provided under Item 13.

Item 15. Foreign Trustee. Not applicable.

Item 16. List of Exhibits. List below all exhibits filed as a part of this Statement of Eligibility.

- Exhibit 1. A copy of the Articles of Association of the trustee now in effect.\*
- Exhibit 2. A copy of the Comptroller of the Currency Certificate of Corporate Existence for Wells Fargo Bank, National Association, dated January 14, 2015.\*\*
- Exhibit 3. A copy of the Comptroller of the Currency Certification of Fiduciary Powers for Wells Fargo Bank, National Association, dated January 6, 2014.\*\*
- Exhibit 4. Copy of By-laws of the trustee as now in effect.\*\*
- Exhibit 5. Not applicable.
- Exhibit 6. The consent of the trustee required by Section 321(b) of the Act.
- Exhibit 7. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.
- Exhibit 8. Not applicable.
- Exhibit 9. Not applicable.

\* Incorporated by reference to the exhibit of the same number to the trustee's Form T-1 filed as exhibit 25 to the Form S-4 dated December 30, 2005 of file number 333-130784.

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\*\* Incorporated by reference to the exhibit of the same number to the trustee's Form T-1 filed as exhibit to the Filing 305B2 dated March 13, 2015 of file number 333-190926.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Wells Fargo Bank, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Dallas and State of Texas on the 23<sup>rd</sup> of August, 2016.

WELLS FARGO BANK, NATIONAL ASSOCIATION



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Patrick T. Giordano  
Vice President

August 23, 2016

Securities and Exchange Commission  
Washington, D.C. 20549

Gentlemen:

In accordance with Section 321(b) of the Trust Indenture Act of 1939, as amended, the undersigned hereby consents that reports of examination of the undersigned made by Federal, State, Territorial, or District authorities authorized to make such examination may be furnished by such authorities to the Securities and Exchange Commission upon its request thereof.

Very truly yours,

WELLS FARGO BANK, NATIONAL ASSOCIATION



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Patrick T. Giordano  
Vice President



Consolidated Report of Condition of

Wells Fargo Bank National Association  
of 101 North Phillips Avenue, Sioux Falls, SD 57104  
And Foreign and Domestic Subsidiaries,

at the close of business June 30, 2016, filed in accordance with 12 U.S.C. §161 for National Banks.

Dollar Amounts  
In Millions

ASSETS		
Cash and balances due from depository institutions:		
Noninterest-bearing balances and currency and coin		\$ 18,611
Interest-bearing balances		240,970
Securities:		
Held-to-maturity securities		100,420
Available-for-sale securities		235,446
Federal funds sold and securities purchased under agreements to resell:		
Federal funds sold in domestic offices		93
Securities purchased under agreements to resell		21,444
Loans and lease financing receivables:		
Loans and leases held for sale		17,329
Loans and leases, net of unearned income	914,730	
LESS: Allowance for loan and lease losses	10,649	
Loans and leases, net of unearned income and allowance		904,081
Trading Assets		39,853
Premises and fixed assets (including capitalized leases)		7,721
Other real estate owned		1,040
Investments in unconsolidated subsidiaries and associated companies		10,445
Direct and indirect investments in real estate ventures		0
Intangible assets		
Goodwill		22,964
Other intangible assets		15,282
Other assets		63,736
Total assets		<u>\$ 1,699,435</u>
LIABILITIES		
Deposits:		
In domestic offices		\$ 1,145,337
Noninterest-bearing	361,165	
Interest-bearing	784,172	
In foreign offices, Edge and Agreement subsidiaries, and IBFs		148,148
Noninterest-bearing	1,175	
Interest-bearing	146,973	
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased in domestic offices		4,716
Securities sold under agreements to repurchase		21,265

	Dollar Amounts In Millions
Trading liabilities	28,205
Other borrowed money	
(includes mortgage indebtedness and obligations under capitalized leases)	147,172
Subordinated notes and debentures	13,650
Other liabilities	32,481
Total liabilities	\$ 1,540,974
<b>EQUITY CAPITAL</b>	
Perpetual preferred stock and related surplus	0
Common stock	519
Surplus (exclude all surplus related to preferred stock)	106,705
Retained earnings	46,032
Accumulated other comprehensive income	4,807
Other equity capital components	0
Total bank equity capital	158,063
Noncontrolling (minority) interests in consolidated subsidiaries	398
Total equity capital	158,461
Total liabilities, and equity capital	\$ 1,699,435

I, John R. Shrewsberry, Sr. EVP & CFO of the above-named bank do hereby declare that this Report of Condition has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true to the best of my knowledge and belief.

John R. Shrewsberry  
Sr. EVP & CFO

We, the undersigned directors, attest to the correctness of this Report of Condition and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Directors

James Quigley  
Enrique Hernandez, Jr  
Lloyd H. Dean