

F 990429000566

CT-07

RESTATED CERTIFICATE OF INCORPORATION

OF

CT-07

THE TECHNICAL MATERIEL CORPORATION

Pursuant to Sections 807 and 808 of the New York Business Corporation Law

WE, THE UNDERSIGNED, being the chairman of the board and secretary of The Technical Materiel Corporation, a corporation organized and existing under the Business Corporation Law of the State of New York (the "Corporation"), hereby certify:

1. The name of the Corporation is The Technical Materiel Corporation.
2. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of New York on September 29, 1947.
3. This Restated Certificate of Incorporation amends, restates and integrates the Corporation's Certificate of Incorporation, as amended to date, in its entirety and is intended to supersede the Corporation's prior Certificate of Incorporation, as amended, in all respects. The Restated Certificate of Incorporation is:
 - (i) amending Article SECOND to state a general purpose clause;
 - (ii) amending Article THIRD, in accordance with the Plan (as defined below), to (a) cancel the Corporation's authorized capital of FOUR MILLION (4,000,000) shares of common stock, par value \$0.125 per share, (b) authorize TWENTY THOUSAND (20,000) shares of common stock, par value \$.01 per share, (c) reduce the stated capital of the Corporation from \$500,000 to \$200, (d) include a statement regarding non-voting equity securities as required by Title 11 of the United States Code, as amended, and (e) amend the language regarding preemptive rights and move such language from Article THIRD to a new Article SIXTH;
 - (iii) amending Article FOURTH to delete the address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him;
 - (iv) amending Article ELEVENTH to (a) become a new Article FIFTH, (b) amend the language relating to the designation of the Secretary of State as the agent for

77626-5

service of process, and (c) insert the address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him;

(v) eliminating original Articles FIFTH (which relates to the duration of the Corporation), SIXTH (which relates to the number of directors of the Corporation), SEVENTH (which relates to the names and post office addresses of the directors until the first annual meeting of stockholders), EIGHTH (which relates to the name and post office addresses of each subscriber of the Certificate of Incorporation), NINTH (which relates to the criteria of the subscribers of the Certificate of Incorporation), and TENTH (which relates to the location of the meetings of the Board of Directors); and

(vi) adding additional new Articles SEVENTH (which limits the liability of directors to the Corporation or its shareholders for monetary damages for breach of fiduciary duty), EIGHTH (which relates to the indemnification by the Corporation of certain persons involved in a proceeding by reason of the fact that he or she is or was affiliated with the Corporation), and NINTH (which relates to the power of the Board of Directors of the Corporation to adopt, amend or repeal the by-laws of the Corporation).

4. Provision for the making of this Restated Certificate of Incorporation is contained in an order, dated November 29, 1995, of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") in In re The Technical Materiel Corp., Case No. 95 B 22028, confirming the plan of reorganization, dated October 30, 1995 (the "Plan"), of the Corporation.

5. The text of the Corporation's Restated Certificate of Incorporation is hereby amended and restated to read in its entirety as follows:

FIRST: The name of the Corporation shall be The Technical Materiel Corporation.

SECOND: The purpose for which the Corporation is formed is to engage in any lawful act or activity for which corporations may be organized under the New York Business Corporation Law ("NYBCL"); provided, however, that the Corporation is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

THIRD: The total number of shares of all classes of capital stock which the Corporation shall have the authority to issue is TWENTY THOUSAND (20,000) shares, par value \$.01 per share, all of which shall be designated Common Stock. In accordance

2

with Section 1123(a)(6) of Title 11 of the United States Code, as amended and as in effect of the date of this Restated Certificate of Incorporation, the Corporation shall not issue any nonvoting equity securities until all payments and distributions to be made under the Plan have been made.

FOURTH: The county within the State of New York in which the office of the Corporation is to be located is Westchester.

FIFTH: The Corporation designates the Secretary of State of the State of New York as its agent for the Corporation upon whom process against it can be served. The Secretary of State shall mail a copy of any process against the Corporation served upon him to the Corporation at 700 Fenimore Road, Mamaroneck, New York, 10543-2300.

SIXTH: No owner or holder of a security of the Corporation shall be entitled, as a matter of right, to subscribe for, purchase or receive any security of the Corporation now or hereafter authorized, pursuant to any preemptive right under Section 622 of the NYBCL or otherwise, except as and to the extent that the Board of Directors, in its absolute discretion, may determine. The Corporation may issue or dispose of any security of the Corporation to such persons and upon such terms as may be specified by the Board of Directors or as may be specified pursuant to authority granted by the Board of Directors, and without giving rise to any right in any person other than the person purchasing or subscribing for such security. The word "security" means a share of any class, any evidence of indebtedness, any right to subscribe for, purchase or receive any such share or evidence of indebtedness or, without limiting the generality of the foregoing, any instrument commonly known at the time as a "security."

SEVENTH: To the fullest extent that the NYBCL 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 shareholders 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 SEVENTH 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.

EIGHTH: A. The Corporation shall, to the fullest extent permitted by applicable law as in effect from time to time, indemnify any person (an "Indemnitee") who was or is involved in any manner (including, without limitation, as a party or a witness) or was or is threatened to be made so involved in any threatened, pending or completed investigation, claim, action, suit or proceeding, whether civil, criminal, administrative or investiga-

3

tive (including, without limitation, any action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor) (a "Proceeding") by reason of the fact that he or she 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 consultant of another corporation or of a partnership, joint venture, trust or other enterprise, whether the basis of any such Proceeding is alleged action in an official capacity as a director or officer or in any other capacity while serving as a director or officer, against all expenses, liability and loss (including, without limitation, attorneys' fees, judgments, fines, and amounts paid or to be paid in settlement) (collectively, "Losses") actually and reasonably incurred by him or her in connection with such Proceeding. The right to indemnification conferred in this Article EIGHTH shall include the right to receive payment in advance of any expenses incurred by the Indemnitee in connection with such Proceeding, consistent with applicable law as then in effect. All right to indemnification conferred in this Article EIGHTH including such right to advance payments, shall be a contract right. The Corporation may, by action of its Board of Directors, provide indemnification for employees, agents, attorneys and representatives of the Corporation with up to the same scope and extent as provided for officers and directors.

B. The right of indemnification provided in this Article EIGHTH shall not be exclusive of any other rights to which any person seeking indemnification may otherwise be entitled under any provision of the By-Laws of the Corporation, any agreement or insurance policy or otherwise. No amendment or repeal of any provision of this Article EIGHTH shall remove, abridge or adversely affect any right of indemnification or any other benefits of the Indemnitee, whether arising under the provisions of this Article EIGHTH or otherwise, with respect to any Proceeding involving any act or omission which occurred prior to such amendment.

NINTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to adopt, amend, or repeal the by-laws of the Corporation.

4

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been signed on this day of March, 1999 and the undersigned affirm the contents as true under the penalties of perjury.

By: _____
Neil de Pasquale
Chairman of the Board

By: _____
Sandra MacDonald
Secretary

5

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been signed on this 25th day of March, 1999 and the undersigned affirm the contents as true under the penalties of perjury.

By: Neil de Pasquale
Neil de Pasquale
Chairman of the Board

By: Sandra MacDonald
Sandra MacDonald
Secretary

77626.5

6

F 990 4 29 0 00 566

CT-07

RESTATED CERTIFICATE OF INCORPORATION
OF
THE TECHNICAL MATERIEL CORPORATION

UNDER SECTIONS 807 AND 808 OF THE BUSINESS CORPORATION LAW

APR 29 3 15 PM '99

SAC #10
PMS

1cc

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED APR 29 1999

TAX \$

BY:

~~SAC~~
Westchester

BILLED

SALANS HERTZFELD HEILBRONN CHRISTY & VIENER
ROCKEFELLER CENTER
620 FIFTH AVENUE
NEW YORK NY 10020

B7

990 4 29 0 00 585