

CERTIFICATE OF INCORPORATION

of

SPECTRUM BRANDS, INC.

WHEREAS, Spectrum Brands, Inc. (the "Corporation") is currently a corporation organized and existing under the provisions of the Wisconsin Business Corporation Law (the "WBCL"). The Corporation was originally incorporated pursuant to the WBCL under the name Rayovac Corporation, and its original Articles of Incorporation were filed with the Wisconsin Department of Financial Institutions on April 15, 1986, and the Amended and Restated Articles of Incorporation of the Corporation were filed with the WDFI on April 28, 2005;

WHEREAS, the Corporation entered bankruptcy proceedings in the United States Bankruptcy Court in the Western District of Texas (the "Bankruptcy Court") on February 3, 2009;

WHEREAS, this Certificate of Incorporation is authorized by and is being filed in connection with the Joint Plan of Reorganization of the Corporation (the "Plan"), which was confirmed by order entered on [____], 2009 by the Bankruptcy Court and was duly adopted pursuant to the applicable provisions of Sections 242 and 303 of the General Corporation Law of the State of Delaware (the "DGCL"); and

WHEREAS, on the date the Plan becomes effective, all stock of and other equity interests in, and all options, warrants, conversion rights, rights of first refusal and other rights (contractual or otherwise) to acquire or receive any stock of or other equity interest in the Corporation that shall be in existence prior to the effectiveness of the Plan are extinguished and cancelled in accordance with the Plan.

NOW, THEREFORE, the Corporation, in order to form a corporation under the DGCL, certifies as follows:

1. Name. The name of the Corporation is Spectrum Brands, Inc.
2. Address; Registered Office and Agent. The address of the Corporation's registered office is 615 South DuPont Highway, City of Dover, County of Kent, State of Delaware 19801; and the name of its registered agent at such address is National Corporate Research.
3. Purposes. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.
4. Capital Stock.

4.1 The total number of shares of all classes of stock that the Corporation shall have authority to issue is one hundred fifty million (150,000,000)

shares of Common Stock, with the par value of \$0.01 per share (the “Common Stock”).

4.2 Except as may otherwise be provided in this Certificate of Incorporation (this “Certificate”) or by applicable law, each holder of Common Stock, as such, shall be entitled to one vote for each share of Common Stock held of record by such holder on all matters on which Stockholders generally are entitled to vote.

4.3 Subject to applicable law and the rights, if any, of the holders of any outstanding series of preferred stock, if any, dividends may be declared and paid on the Common Stock at such times and in such amounts as the Board of Directors (the “Board”) in its discretion shall determine.

4.4 Upon the dissolution, liquidation or winding up of the Corporation, subject to the rights, if any, of the holders of any outstanding series of preferred stock, the holders of the Common Stock shall be entitled to receive the assets of the Corporation available for distribution to its Stockholders ratably in proportion to the number of shares held by them.

5. Name and Mailing Address of Incorporator. The name and mailing address of the incorporator is: Benjamin O. Kostrzewa, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064.

6. Election of Directors; Vacancies.

6.1 The number of directors shall be determined in accordance with the Corporation’s By-laws (the “By-laws”).

6.2 In the election of directors to the Corporation, each Stockholder is entitled to the number of votes that is equal to the number of shares owned by such Stockholder multiplied by the number of directors to be elected. Each Stockholder may cast all of the resulting votes for a single director, or may distribute them among the directors to be elected at the Stockholder’s discretion. Unless and except to the extent that the By-laws shall so require, the election of directors of the Corporation need not be by written ballot. A director may be removed from office as a director, but only for Cause (as defined below), by the affirmative vote of holders of at least 60% of the voting power of shares entitled to vote at an election of directors.

For purposes of this Section 6.2, “Cause” shall mean any director who (a) is convicted of fraud, theft, misappropriation of funds or a felony, (b) commits an act of intentional misconduct (or intentional failure to act) that is injurious to the financial condition or business reputation of the Corporation or any of its Subsidiaries or Affiliates or (c) commits an act of dereliction or gross negligence in his or her performance of his or her duties.

6.3 Newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from

death, resignation, retirement, disqualification, removal from office or other cause shall be filled solely by the affirmative vote of a majority of the remaining directors then in office (even though less than a quorum of the Board). Any director so chosen shall hold office until the next annual meeting of Stockholders and until his successor shall be elected and qualified.

6.4 Directors, unless employed by and receiving a salary from the Corporation, shall receive such compensation for serving on the Board and for attending meetings of the Board and any committee thereof as may be fixed by the Board. Directors shall be reimbursed their reasonable expenses incurred while engaged in the business of the Corporation.

7. Limitation of Liability. To the fullest extent permitted under the DGCL, as amended from time to time, no director of the Corporation shall be personally liable to the Corporation or its Stockholders for monetary damages for breach of fiduciary duty as a director.

Notwithstanding anything to the contrary contained herein, any repeal or amendment of this Article 7 by the Stockholders of the Corporation or by changes in law, or the adoption of any other provision of this Certificate of Incorporation inconsistent with this Article 7, will, unless otherwise required by law, be prospective only, and will not in any way diminish or adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

8. Indemnification.

8.1 Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another entity or enterprise, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 8.3, the Corporation shall be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person only if the commencement of such Proceeding (or part thereof) by the Covered Person was authorized by the Board.

8.2 Prepayment of Expenses. To the extent not prohibited by applicable law, the Corporation shall pay the expenses (including attorneys' fees)

incurred by a Covered Person in defending any Proceeding in advance of its final disposition; provided, however, that, to the extent required by applicable law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article 8 or otherwise.

8.3 Claims. If a claim for indemnification or advancement of expenses under this Article 8 is not paid in full within 30 days after a written claim therefor by the Covered Person has been received by the Corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

8.4 Nonexclusivity of Rights. The rights conferred on any Covered Person by this Article 8 shall not be exclusive of any other rights that such Covered Person may have or hereafter acquire under any statute, provision of this Certificate of Incorporation, the By-laws, agreement, vote of Stockholders or disinterested directors or otherwise.

8.5 Other Sources. The Corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another entity or enterprise shall be reduced by any amount such Covered Person actually collects as indemnification or advancement of expenses from such other entity or enterprise, provided, however, that no Covered Person shall be required to seek recovery from any other entity or enterprise.

8.6 Amendment or Repeal. Notwithstanding anything to the contrary contained herein, any repeal or amendment of this Article 8 by the Stockholders of the Corporation or by changes in law, or the adoption of any other provision of this Certificate of Incorporation inconsistent with this Article 8, will, unless otherwise required by law, be prospective only (except to the extent such amendment or change in law permits the Corporation to provide broader rights on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection of a Covered Person existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

8.7 Other Indemnification and Prepayment of Expenses. This Article 8 shall not limit the right of the Corporation, to the extent and in the manner permitted by applicable law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

9. Section 203. The Corporation shall not be governed by Section 203 of the DGCL.

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

11. Powers of the Incorporator. The powers of the incorporator are to terminate upon the filing of this Certificate of Incorporation with the Secretary of State of the State of Delaware. The name and mailing address of the persons who are to serve as the initial directors of the Corporation, or until their successors are duly elected and qualified are set forth below:

Name	Mailing Address
TBD	TBD
TBD	TBD
TBD	TBD
TBD	TBD
TBD	TBD
TBD	TBD
TBD	TBD

12. Non-voting securities. Pursuant to Section 1123(a)(6) of Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), the Corporation will not issue non-voting equity securities (which shall not be deemed to include any warrants or options to purchase capital stock of the Corporation); provided, however, that this provision (i) will have no further force or effect beyond that required under Section 1123 of the Bankruptcy Code, (ii) will have such force and effect, if any, only for so long as such section is in effect and applicable to the Corporation or any of its wholly-owned Subsidiaries and (iii) in all events may be amended or eliminated in accordance with applicable law as from time to time in effect.

13. Purchase Rights.

13.1 General. Each Eligible Stockholder (hereinafter referred to as a "Rights Holder"), has the right to purchase such Rights Holder's Pro Rata Share (as defined in this Section 13.1), of all or any part of any New Securities (as

defined in Section 13.2 hereof), that the Corporation may from time to time issue after the date of this Certificate. A Rights Holder's "Pro Rata Share" for purposes of this right is the ratio of (a) the number of shares of the Corporation's Common Stock owned by such Rights Holder on the date of the New Securities Notice (as defined in Section 13.3(a)) to (b) the sum of the total number of shares of the Corporation's Common Stock then outstanding.

13.2 New Securities. For purposes of this Article 13, "New Securities" means any of the Corporation's Capital Stock, whether now authorized or not, and rights, options or warrants to purchase such Capital Stock and securities of any type whatsoever that are, or may become, convertible into, exercisable for or exchangeable into such Capital Stock; provided, however, that the term "New Securities" does not include securities issued or issuable:

(a) to officers, directors or employees of the Corporation or any of its Subsidiaries pursuant to an equity incentive plan or stock purchase plan or agreement on terms approved by affirmative vote of a majority of the Board (including securities issued or issuable upon the conversion or exchange of such securities in accordance with the provisions of such plan or agreement);

(b) in connection with bona fide, arm's length debt financings, corporate partnering transactions, equipment leases or acquisitions of intellectual property rights on terms approved by affirmative vote of a majority of the Board; provided that such transactions are primarily for purposes other than equity financing;

(c) in connection with a stock split (or reverse stock split), subdivision, dividend or distribution in respect of the Corporation's Capital Stock;

(d) to the public pursuant to a registration statement filed under the Securities Act of 1933, as amended or, if applicable, pursuant to an indenture qualified under the Trust Indenture Act of 1939, as amended;

(e) as consideration for the acquisition of another Person by the Corporation by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Corporation acquires, in a single transaction or series of related transactions, one or more divisions or lines of business or all or substantially all of the assets of such other Person or 50% or more of the voting power of such other Person or 50% or more of the equity ownership of such other Person; or

(f) as any right, option or warrant to acquire any securities specifically excluded from the definition of New Securities, pursuant to subsections (a) through (e).

13.3 Procedure.

(a) The Corporation will give each Rights Holder at least ten (10) days prior written notice of the Corporation's intention to issue New Securities (the "New Securities Notice"), describing the type and amount of New Securities to be issued

and the price and the general terms and conditions upon which the Corporation proposes to issue such New Securities. Each Rights Holder may purchase any or all of such Rights Holder's Pro Rata Share of such New Securities, by delivering to the Corporation, within ten (10) days after the date of receipt of any such New Securities Notice by the Corporation, a written notice specifying such number of New Securities which such Rights Holder desires to purchase, for the price and upon the general terms and conditions specified in the New Securities Notice. If any Rights Holder fails to notify the Corporation in writing within such ten (10) day period of its election to purchase any or all of such Rights Holder's full Pro Rata Share of an offering of New Securities (a "Nonpurchasing Holder"), then such Nonpurchasing Holder will forfeit the right hereunder to purchase that part of such Rights Holder's Pro Rata Share of such New Securities that such Rights Holder did not agree to purchase.

(b) If any Rights Holder fails to elect to purchase the full amount of such Rights Holder's Pro Rata Share of the New Securities, the Corporation shall give notice ("Purchasing Holders Notice") of such failure to the Rights Holders who did so elect (the "Purchasing Holders"). Such Purchasing Holders Notice may be made by telephone if confirmed in writing within two (2) days. A Purchasing Holder shall have five (5) days from the date such Purchasing Holders Notice was given to such Purchasing Holder to notify the Corporation in writing of its election ("Purchasing Holders Election") to purchase its pro rata portion of the total number of New Securities available for purchase by Rights Holders pursuant to Section 13.1 not subscribed for by the Nonpurchasing Holders. Each Purchasing Holder's pro rata portion thereof shall be equal to the number of shares of Common Stock held by such Purchasing Holder on the date of the New Securities Notice, as a percentage of the total number of shares of Common Stock held by all Purchasing Holders on the date of the New Securities Notice.

(c) If subsequent to the procedure set forth in this Section 13.3, there shall be New Securities available for purchase by Rights Holders pursuant to Section 13.1 hereof that have not been purchased by the Purchasing Holders, the Corporation shall repeat the procedure set forth in Section 13.3(b), as many times as necessary, until it has been determined that none of the Purchasing Holders has made a Purchasing Holders Election pursuant to the procedure set forth in this Section 13.3.

13.4 Failure to Exercise. In the event that the Rights Holders fail to exercise in full the purchase right with respect to all of the offered New Securities described in the New Securities Notice, then the Corporation will have sixty (60) days after a determination has been made pursuant to the last clause of Section 13.3(c) to sell the New Securities with respect to which the Rights Holders' rights hereunder were not exercised, at a price and upon terms and conditions not more favorable to the purchasers thereof than specified in the New Securities Notice to the Rights Holders. In the event that the Corporation has not issued and sold such New Securities within such sixty (60) day period, then the Corporation shall not thereafter issue or sell such New Securities without again first offering such New Securities to the Rights Holders pursuant to this Article 13.

13.5 Exception. Notwithstanding anything to the contrary contained herein, the Corporation may sell and any Rights Holder may purchase New Securities of the Corporation without complying with Section 13.3, provided that promptly after such purchase, each Rights Holder purchasing New Securities offers in writing to the non-purchasing Rights Holders the right to purchase from such purchasing Rights Holder(s) their Pro Rata Share (after giving effect to the issuance of New Securities) of such New Securities purchased on the same terms as the purchasing Rights Holder purchased such New Securities. Any such right to purchase shall be exercisable for a period of ten (10) business days after the delivery of such written notice by purchasing Rights Holder.

14. Board of Directors, Management.

14.1 Conflicts of Interest. The Stockholders and the Corporation recognize that the Stockholders, their Affiliates and the directors elected or appointed to the Board by the Stockholders: (i) may have participated, directly or indirectly, and may continue to participate (including, without limitation, in the capacity of investor, manager, officer and employee) in businesses that are similar to or compete with the business (or proposed business) of the Corporation; (ii) may have interests in, participate with, aid and maintain seats on the board of directors of other such entities; and (iii) may develop opportunities for such entities (collectively, the "Position"). In such Position, the Stockholders, their Affiliates and the directors elected or appointed to the Board by the Stockholders may encounter business opportunities that the Corporation or its Stockholders may desire to pursue. The Stockholders and the Corporation agree that the Stockholders, their Affiliates and the directors elected or appointed by the Stockholders to the Board shall have no obligation to the Corporation, the Stockholders or to any other Person to present any such business opportunity to the Corporation before presenting and/or developing such opportunity with any other Persons, other than such opportunities specifically presented to any such Stockholder or director for the Corporation's benefit in his or her capacity as a Stockholder or director of the Corporation. Each Stockholder and the Corporation acknowledge and agree that, in any such case, to the extent a court might hold that the conduct of such activity is a breach of a duty to the Corporation, such Stockholder and the Corporation hereby waive any and all claims and causes of action that such Stockholder and/or the Corporation believes that it may have for such activities. Each Stockholder and the Corporation further agrees that the waivers and agreements in this Certificate identify certain types and categories of activities which do not violate the director's duty of loyalty to the Corporation, and such types and categories are not manifestly unreasonable. The waivers and agreements in this Certificate apply to activities conducted after the date hereof.

14.2 Board Observers. For so long as any Stockholder and its Affiliates own at least 10% of the Corporation's outstanding Common Stock, such Stockholder shall be entitled to appoint a non-voting observer to the Board and each such observer shall receive all materials distributed to members of the Board (including all notices given to members of the Board) provided that such observer

signs a customary confidentiality agreement in form and substance reasonably satisfactory to the Corporation; provided, further, that the Board may exclude an observer from access to any materials or meeting or portion thereof if (i) the Board has been advised by outside legal counsel that such exclusion is reasonably necessary to preserve the attorney-client privilege or to comply with the Board's fiduciary duties or (ii) the Board determines that access to such materials or meeting or portion thereof would result in a conflict of interest and so notifies the observer in writing of the specific conflict of interest; provided, however, that it is understood that ownership of indebtedness owed by the Corporation or its Subsidiaries shall not, in and of itself, constitute or result in a conflict of interest other than with respect to matters directly related to such indebtedness.

15. Covenants of the Corporation.

15.1 Inspection. Subject to an Eligible Stockholder signing a customary confidentiality agreement in form and substance reasonably satisfactory to the Corporation, the Corporation will permit such Eligible Stockholder's representatives, at such Eligible Stockholder's expense, to visit and inspect any of the properties of the Corporation and its Subsidiaries, examine their respective books and records and take copies and extracts therefrom, discuss the affairs, finances and accounts of the Corporation and its Subsidiaries with the Corporation's and its Subsidiaries' respective officers, employees and public accountants (and the Corporation hereby authorizes said accountants to discuss with such holder and such designees such affairs, finances and accounts), during normal business hours and upon reasonable notice, provided that in the event that any Eligible Stockholder or any of its Affiliates is a direct competitor of the Corporation or any of its Subsidiaries, the Corporation shall have no obligation to disclose information to such Eligible Stockholder to the extent it reasonably determines such information is competitively sensitive.

15.2 Information Rights. Subject to an Eligible Stockholder signing a customary confidentiality agreement in form and substance reasonably satisfactory to the Corporation, the Corporation will provide or make available directly to such Eligible Stockholder:

(a) As soon as available but in any event within 90 days after the end of each fiscal year (or, if later, by the date the annual report on Form 10-K of the Corporation for such fiscal year would have been required to be filed under the rules and regulations of the United States Securities and Exchange Commission (the "SEC"), giving effect to any automatic extension available thereunder for filing of such form), (A) audited consolidated annual financial statements (including an income statement, balance sheet and statement of cash flows) of the Corporation, accompanied by (B) a narrative discussion, prepared by the Corporation's management, comparing the operations of the current fiscal year and the previous fiscal year.

(b) As soon as available but in any event within 45 days after the end of each of the first three quarters of each fiscal year (or, if later, by the date the

quarterly report on Form 10-Q of the Corporation for such fiscal quarter would have been required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for filing of such form), (A) unaudited quarterly consolidated financial statements (including an income statement, balance sheet and statement of cash flows (each unaudited)) of the Corporation, and (B) a narrative discussion, prepared by the Corporation's management, comparing the operations for the current fiscal quarter to date and the same period for the previous fiscal year.

(c) Upon the request of such Eligible Stockholder (provided that such Eligible Stockholder or any of its Affiliates is not a direct competitor of the Corporation), the Corporation shall arrange for a telephonic call (to be held within 5 calendar days of such request) available to all Stockholders to discuss the annual or quarterly financial statements for any given period, provided that notice of such telephonic call shall be given to the Eligible Stockholders at least 72 hours in advance of such a call; provided further that there shall be no more than one such call for any completed annual or quarterly period.

(d) For purposes of this Section 15.2, in the event that any Eligible Stockholder or any of its Affiliates is a direct competitor of the Corporation or any of its Subsidiaries, the Corporation shall have no obligation to disclose information to such Eligible Stockholder to the extent it reasonably determines such information is competitively sensitive.

15.3 Transactions with Affiliates. The Corporation shall not, and shall not permit any of its Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into, make, amend, renew or extend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (each, an "Affiliate Transaction"), unless:

(a) such Affiliate Transaction is on terms that are no less favorable to the Corporation or the relevant Subsidiary than those that would have been obtained in a comparable arm's-length transaction by the Corporation or such Subsidiary with a Person that is not an Affiliate of the Corporation; and

(b) the Corporation delivers to the Eligible Stockholders:

(i) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, a resolution of the Board set forth in an Officers' Certificate certifying that such Affiliate Transaction or series of related Affiliate Transactions complies with this Section 15.3 and that such Affiliate Transaction or series of related Affiliate Transactions has been approved by a majority of the disinterested members of the Board; and

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25.0 million, an opinion as to the fairness to the Corporation or such Subsidiary of such Affiliate Transaction or series of related Affiliate Transactions from a financial point of view issued by an independent accounting, appraisal or investment banking firm of national standing.

15.4 The following items shall not be deemed to be Affiliate Transactions and, therefore, shall not be subject to Section 15.3:

(a) transactions between or among the Corporation and/or its Subsidiaries;

(b) payment of reasonable and customary fees and compensation to, and reasonable and customary indemnification arrangements and similar payments on behalf of, directors of the Corporation;

(c) the Plan, the New Indenture, the New Notes, the Exit Facility and the Registration Rights Agreements and the transactions expressly contemplated hereby and thereby;

(d) Restricted Payments (as defined in the New Indenture) that are permitted by the New Indenture;

(e) any sale of Capital Stock of the Corporation to which Article 13 of this Certificate applies;

(f) loans and advances to officers and employees of the Corporation or any of its Subsidiaries for bona fide business purposes in the ordinary course of business consistent with past practice;

(g) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Corporation or any of its Subsidiaries, with officers and employees of the Corporation or any of its Subsidiaries and the payment of compensation to officers and employees of the Corporation or any of its Subsidiaries (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans), in each case in the ordinary course of business; and

(h) any agreements or arrangements in effect on the date of this Certificate, or any amendment, modification, or supplement thereto or any replacement thereof, as long as such agreement or arrangement, as so amended, modified, supplemented or replaced, is not more disadvantageous in any way to the Corporation and its Subsidiaries

than the original agreement as in effect on the date of this Certificate, and any transactions contemplated by any of the foregoing agreements or arrangements.

16. Certificate Amendments. Subject to Article 7 and Section 8.6, the Corporation reserves the right at any time, and from time to time, to amend or repeal any provision contained in this Certificate of Incorporation, and add other provisions authorized by the laws of the State of Delaware at the time in force, in the manner now or hereafter prescribed by applicable law; and all rights, preferences and privileges of whatsoever nature conferred upon Stockholders, directors or any other Persons whomsoever by and pursuant to this Certificate, as amended, are granted subject to the rights reserved in this Article 16, provided however, that no action to repeal or amend Articles 13, 14, 15 or this Article 16, or Section 6.2 herein, or the adoption of any other provision inconsistent with such Articles or Sections, shall be effective without the affirmative vote of Stockholders holding at least sixty percent (60%) of the total outstanding Common Stock (or the Capital Stock into which the Common Stock may be converted).

17. Definitions. Capitalized terms used but not otherwise defined in this Certificate shall have the meanings set forth below:

“Affiliate” means any Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified. For purposes of the definition of Affiliate and Subsidiary, “control” means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. Notwithstanding the foregoing, the term “Affiliate” as used in Section 15.3 herein shall have the meaning ascribed to such term in the New Indenture.

“Capital Stock” means all shares hereafter authorized of any class of capital stock of the Corporation which has the right to participate in the distribution of the assets and earnings of the Corporation, including Common Stock and any shares of capital stock into which Common Stock may be converted (as a result of recapitalization, share exchange or similar event) or are issued with respect to Common Stock, including, without limitation, with respect to any stock split or stock dividend, or a successor security.

“Eligible Stockholder” means any Person who holds together with its Affiliates 5% or more of the Corporation’s outstanding Common Stock or Capital Stock into which any Common Stock may be converted.

“Exit Facility” means the credit facilities provided under that certain credit agreement (and any related documents, agreements, and instruments) dated as of [____], 2009, by and among the Corporation and [____].

“New Indenture” means that certain indenture dated as of [____], 2009, by and among the Corporation, U.S. Bank National Association and the guarantors listed on Schedule I therein as the same may be amended, modified, or supplemented from time to time in accordance with the terms thereof.

“New Notes” means the Corporation’s 12% Senior Subordinated Toggle Notes due 2019 to be issued by the Corporation pursuant to the terms of the New Indenture.

“Person” means any individual, corporation, partnership, limited partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or other similar organization or entity.

“Registration Rights Agreements” means collectively the Registration Rights Agreements, by and among the Corporation and the other parties signatory thereto, each dated as of _____, 2009, in each case as the same may be amended, modified, or supplemented from time to time in accordance with the terms thereof.

“Stockholder” means any Person who owns Common Stock or Capital Stock into which any Common Stock may be converted.

“Subsidiary” means, at any time, with respect to any Person (the “Subject Person”), any other Person of which either (a) fifty percent (50%) or more of the securities or other interests entitled to vote in the election of directors or comparable governance bodies performing similar functions or (b) fifty percent (50%) or more of an interest in the profits or capital of such Person, in each case, are at the time owned or controlled directly or indirectly by the Subject Person or through one or more Subsidiaries of the Subject Person.

WITNESS the signature of this Certificate of Incorporation this____ day of
_____, 2009.

Name: Benjamin O. Kostrzewa
Title: Incorporator

BY-LAWS

of

SPECTRUM BRANDS, INC.

(A Delaware Corporation)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS	1
ARTICLE 2 STOCKHOLDERS.....	2
ARTICLE 3 DIRECTORS	10
ARTICLE 4 COMMITTEES OF THE BOARD	15
ARTICLE 5 OFFICERS.....	15
ARTICLE 6 INDEMNIFICATION	18
ARTICLE 7 GENERAL PROVISIONS	19

ARTICLE 1

DEFINITIONS

As used in these By-laws, unless the context otherwise requires, the term:

- 1.1 “Assistant Secretary” means an Assistant Secretary of the Corporation.
- 1.2 “Assistant Treasurer” means an Assistant Treasurer of the Corporation.
- 1.3 “Board” means the Board of Directors of the Corporation.
- 1.4 “By-laws” means the By-laws of the Corporation, as amended or restated from time to time.
- 1.5 “Certificate of Incorporation” means the Certificate of Incorporation of the Corporation, as amended or restated from time to time.
- 1.6 “Chairman” means the Chairman of the Board of Directors of the Corporation.
- 1.7 “Corporation” means Spectrum Brands, Inc.
- 1.8 “DGCL” means the General Corporation Law of the State of Delaware, as amended.
- 1.9 “Directors” means the directors of the Corporation.
- 1.10 “law” means any U.S. or non-U.S., federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a governmental authority (including any department, court, agency or official, or non-governmental self-regulatory organization, agency or authority and any political subdivision or instrumentality thereof).
- 1.11 “Office of the Corporation” means the executive office of the Corporation, anything in Section 131 of the DGCL to the contrary notwithstanding.
- 1.12 “President” means the President of the Corporation.
- 1.13 “Secretary” means the Secretary of the Corporation.
- 1.14 “Stockholders” means the stockholders of the Corporation.
- 1.15 “Treasurer” means the Treasurer of the Corporation.

1.16 “Vice President” means a Vice President of the Corporation.

ARTICLE 2

STOCKHOLDERS

2.1 Place of Meetings. Meetings of Stockholders may be held at such place or solely by means of remote communication or otherwise, as may be designated by the Board from time to time.

2.2 Annual Meetings; Stockholder Proposals.

(A) A meeting of Stockholders for the election of Directors and other business shall be held annually at such date and time as may be designated by the Board from time to time.

(B) At an annual meeting of the Stockholders, only business (other than business relating to the nomination or election of Directors which is governed by Section 3.3) that has been properly brought before the Stockholder meeting in accordance with the procedures set forth in this Section 2.2 shall be conducted. To be properly brought before a meeting of Stockholders, such business must be brought before the meeting (i) by or at the direction of the Board or any committee thereof or (ii) by a Stockholder who (a) was a Stockholder of record of the Corporation when the notice required by this Section 2.2 is delivered to the Secretary of the Corporation and at the time of the meeting, (b) is entitled to vote at the meeting and (c) complies with the notice and other provisions of this Section 2.2. Section 2.2(B)(ii) is the exclusive means by which a Stockholder may bring business before a meeting of Stockholders, except (x) with respect to nominations or elections of Directors which is governed by Section 3.3 and (y) with respect to proposals where the Stockholder proposing such business has notified the Corporation of such Stockholder’s intent to present the proposals at an annual meeting in compliance with Section 14 of the Securities Exchange Act of 1934 (the “Exchange Act”) and such proposals have been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting, in which case the notice requirements of this Section 2.2 shall be deemed satisfied with respect to such proposals. Any business brought before a meeting in accordance with Section 2.2(B)(ii) is referred to as “Stockholder Business”.

(C) At any annual meeting of Stockholders, all proposals of Stockholder Business must be made by timely written notice given by or on behalf of a Stockholder of record of the Corporation (the “Notice of Business”) and must otherwise be a proper matter for Stockholder action. To be timely, the Notice of Business must be delivered personally or mailed to, and received at the Office of the Corporation, addressed to the Secretary of the Corporation, by no earlier than 120 days and no later than 90 days before the first anniversary of the date of the prior year’s annual meeting of Stockholders; provided, however, that if (i) the annual meeting of Stockholders is advanced by more than 30 days, or delayed by more than 60 days, from the first

anniversary of the prior year's annual meeting of Stockholders, (ii) no annual meeting was held during the prior year or (iii) in the case of the Corporation's first annual meeting of Stockholders as a corporation with a class of equity security registered under the Exchange Act, the notice by the Stockholder to be timely must be received (a) no earlier than 120 days before such annual meeting and (b) no later than the later of 90 days before such annual meeting and the tenth day after the day on which the notice of such annual meeting was made by mail or Public Disclosure. In no event shall an adjournment, postponement or deferral, or Public Disclosure of an adjournment, postponement or deferral, of a Stockholder meeting commence a new time period (or extend any time period) for the giving of the Notice of Business.

(D) The Notice of Business must set forth:

(i) the name and record address of each Stockholder proposing Stockholder Business (the "Proponent"), as they appear on the Corporation's books;

(ii) the name and address of any Stockholder Associated Person;

(iii) as to each Proponent and any Stockholder Associated Person, (a) the class or series and number of shares of stock directly or indirectly held of record and beneficially by the Proponent or Stockholder Associated Person, (b) the date such shares of stock were acquired, (c) a description of any agreement, arrangement or understanding, direct or indirect, with respect to such Stockholder Business between or among the Proponent, any Stockholder Associated Person or any others (including their names) acting in concert with any of the foregoing, (d) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, hedging transactions and borrowed or loaned shares) that has been entered into, directly or indirectly, as of the date of the Proponent's notice by, or on behalf of, the Proponent or any Stockholder Associated Person, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of the Proponent or any Stockholder Associated Person with respect to shares of stock of the Corporation (a "Derivative") (e) a description in reasonable detail of any proxy (including revocable proxies), contract, arrangement, understanding or other relationship pursuant to which the Proponent or Stockholder Associated Person has a right to vote any shares of stock of the Corporation, (f) any rights to dividends on the stock of the Corporation owned beneficially by the Proponent or Stockholder Associated Person that are separated or separable from the underlying stock of the Corporation, (g) any proportionate interest in stock of the Corporation or Derivatives held, directly or indirectly, by a general or limited partnership in which the Proponent or Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, and (h) with respect to any and all of the agreements, contracts, understandings, arrangements, proxies or other relationships referred to in the foregoing clauses (c) through (g), a representation that such Proponent will notify the Corporation in writing of any such agreement, contract, understanding, arrangement, proxy or other relationship that are or will be in effect as of the date of such

annual meeting no later than five business days before the date of such meeting. The information specified in Section 2.2(D)(i) to (iii) is referred to herein as “Stockholder Information”;

(iv) a representation that each Proponent is a holder of record of stock of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose such Stockholder Business,

(v) a brief description of the Stockholder Business desired to be brought before the annual meeting, the text of the proposal (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend the By-laws, the language of the proposed amendment) and the reasons for conducting such Stockholder Business at the meeting;

(vi) any material interest of the Proponent and any Stockholder Associated Person in such Stockholder Business;

(vii) a representation as to whether the Proponent intends (a) to deliver a proxy statement and form of proxy to holders of at least the percentage of the Corporation’s outstanding capital stock required to approve or adopt such Stockholder Business or (b) otherwise to solicit proxies from stockholders in support of such Stockholder Business; and

(viii) all other information that would be required to be filed with the Securities and Exchange Commission (“SEC”) if the Proponents or Stockholder Associated Persons were participants in a solicitation subject to Section 14 of the Exchange Act.

(E) The person presiding over the meeting shall, if the facts warrant, determine and declare to the meeting, that business was not properly brought before the meeting in accordance with the procedures set forth in this Section 2.2, and, if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

(F) If the Proponent (or a qualified representative of the Proponent) does not appear at the meeting of Stockholders to present the Stockholder Business such business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 2.2, to be considered a qualified representative of the Stockholder, a person must be a duly authorized officer, manager or partner of such Stockholder or must be authorized by a writing executed by such Stockholder or an electronic transmission delivered by such Stockholder to act for such Stockholder as proxy at the meeting of Stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of Stockholders.

(G) “Public Disclosure” of any date or other information means disclosure thereof by a press release reported by the Dow Jones News Services,

Associated Press or comparable U.S. national news service or in a document publicly filed by the Corporation with the SEC pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

(H) “Stockholder Associated Person” means with respect to any Stockholder, (i) any other beneficial owner of stock of the Corporation that are owned by such Stockholder and (ii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Stockholder or such beneficial owner.

(I) “Control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

(J) Nothing in this Section 2.2 shall be deemed to affect any rights of the holders of any series of preferred stock of the Corporation pursuant to any applicable provision of the Certificate of Incorporation.

2.3 Special Meetings.

(A) Special meetings of Stockholders may be called at any time by the Board by giving notice to each Stockholder entitled to vote at such meeting in accordance with Section 2.5 hereof. Business transacted at any special meeting of Stockholders called by the Board shall be limited to the purposes stated in the notice.

(B) Special meetings of Stockholders shall be called by the Board upon written request to the Secretary of one or more record holders of shares of stock of the Corporation representing in the aggregate not less than fifteen percent (15%) of the total number of shares of stock entitled to vote on the matter or matters to be brought before the proposed special meeting. A request to the Secretary shall be signed by each Stockholder, or a duly authorized agent of such Stockholder, requesting the special meeting and shall set forth a brief description of each matter of business desired to be brought before the special meeting. A special meeting requested by Stockholders shall be held at such date, time and place within or without the state of Delaware as may be fixed by the Board; provided, however, that the date of any such special meeting shall be not more than ninety (90) days after the request to call the special meeting is received by the Secretary. Notwithstanding the foregoing, a special meeting requested by Stockholders shall not be held if the Board has called or calls for an annual meeting of Stockholders to be held within ninety (90) days after the Secretary receives the request for the special meeting and the Board determines in good faith that the business of such annual meeting includes (among any other matters properly brought before the annual meeting) the business specified in the request. A Stockholder may revoke a request for a special meeting at any time by written revocation delivered to the Secretary, and if, following such revocation, there are unrevoked requests from Stockholders holding in the aggregate less than the requisite number of shares entitling the Stockholders to request the calling of a special meeting, the Board, in its discretion, may cancel the special meeting. Business

transacted at a special meeting requested by Stockholders shall be limited to the matters described in the special meeting request; provided, however, that nothing herein shall prohibit the Board from submitting matters to the Stockholders at any special meeting requested by Stockholders.

2.4 Record Date.

(A) For the purpose of determining the Stockholders entitled to notice of or to vote at any meeting of Stockholders or any adjournment thereof, unless otherwise required by the Certificate of Incorporation or applicable law, the Board may fix a record date, which record date shall not precede the date on which the resolution fixing the record date was adopted by the Board and shall not be more than 60 days or less than ten days before the date of such meeting. Subject to Section 2.13, for the purposes of determining the Stockholders entitled to express consent to corporate action in writing without a meeting, unless otherwise required by the Certificate of Incorporation or applicable law, the Board may fix a record date, which record date shall not precede the date on which the resolution fixing the record date was adopted by the Board and shall not be more than ten days after the date on which the record date was fixed by the Board. For the purposes of determining the Stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, exercise any rights in respect of any change, conversion or exchange of stock or take any other lawful action, unless otherwise required by the Certificate of Incorporation or applicable law, the Board may fix a record date, which record date shall not precede the date on which the resolution fixing the record date was adopted by the Board and shall not be more than 60 days prior to such action.

(B) Subject to Section 2.13, if no such record date is fixed:

(i) 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 on which notice is given or, if notice is waived, at the close of business on the day on which the meeting is held;

(ii) The record date for determining Stockholders entitled to express consent to corporate action in writing without a meeting (unless otherwise provided in the Certificate of Incorporation), when no prior action by the Board is required by applicable law, shall be the first day on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law; and when prior action by the Board is required by applicable law, the record date for determining Stockholders entitled to express consent to corporate action in writing without a meeting shall be at the close of business on the date on which the Board takes such prior action; and

(iii) When a determination of Stockholders of record entitled to notice of or to vote at any meeting of Stockholders has been made as provided in this Section 2.4, such determination shall apply to any adjournment thereof unless the Board fixes a new record date for the adjourned meeting.

2.5 Notice of Meetings of Stockholders. Whenever under the provisions of applicable law, the Certificate of Incorporation or these By-laws, Stockholders are required or permitted to take any action at a meeting, notice shall be given stating the place, if any, date and hour of the meeting, the means of remote communication, if any, by which Stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purposes for which the meeting is called. Unless otherwise provided by these By-laws or applicable law, notice of any meeting shall be given, not less than ten nor more than 60 days before the date of the meeting, to each Stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the U.S. mail, with postage prepaid, directed to the Stockholder at his or her address as it appears on the records of the Corporation. An affidavit of the Secretary, an Assistant Secretary or the transfer agent of the Corporation that the notice required by this Section 2.5 has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein. If a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. Any business that might have been transacted at the meeting as originally called may be transacted at the adjourned meeting. If, however, the adjournment is for more than 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 the meeting.

2.6 Waivers of Notice. Whenever the giving of any notice to Stockholders is required by applicable law, the Certificate of Incorporation or these By-laws, a waiver thereof, given by the person entitled to said notice, whether before or after the event as to which such notice is required, shall be deemed equivalent to notice. Attendance by a Stockholder at a meeting shall constitute a waiver of notice of such meeting except when the Stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the Stockholders need be specified in any waiver of notice.

2.7 List of Stockholders. The Secretary shall prepare and make, at least ten days before every meeting of Stockholders, a complete, alphabetical list of the Stockholders entitled to vote at the meeting, and showing the address of each Stockholder and the number of shares registered in the name of each Stockholder. Such list may be examined by any Stockholder, at the Stockholder's expense, for any purpose germane to the meeting, for a period of at least ten days prior to the meeting, during ordinary business hours at the principal place of business of the Corporation or on a reasonably accessible electronic network as provided by applicable law. If the meeting is to be held at a place, 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. If the meeting is held solely by means of remote communication, the list shall also be open for inspection as provided by applicable law. Except as provided by applicable law, the stock ledger shall be the only evidence as to who are the Stockholders entitled to

examine the list of Stockholders or to vote in person or by proxy at any meeting of Stockholders.

2.8 Quorum of Stockholders; Adjournment. Except as otherwise provided by these By-laws, at each meeting of Stockholders, the presence in person or by proxy of the holders of a majority of the voting power of all outstanding shares of stock entitled to vote at the meeting of Stockholders, shall constitute a quorum for the transaction of any business at such meeting. In the absence of a quorum, the holders of a majority in voting power of the shares of stock present in person or represented by proxy at any meeting of Stockholders, including an adjourned meeting, may adjourn such meeting to another time and place. Shares of its own stock belonging to the Corporation or to any of its subsidiaries shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

2.9 Voting; Proxies. At any meeting of Stockholders, all matters other than the election of Directors, except as otherwise provided by the Certificate of Incorporation, these By-laws or any applicable law, shall be decided by the affirmative vote of a majority in voting power of shares of stock present in person or represented by proxy and entitled to vote thereon. At all meetings of Stockholders for the election of Directors, a plurality of the votes cast shall be sufficient to elect. 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 such Stockholder 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. A proxy shall be irrevocable if it states that it is irrevocable and if, and only so long as, it is coupled with an interest sufficient in law to support an irrevocable power. A Stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary a revocation of the proxy or by delivering a new proxy bearing a later date.

2.10 Voting Procedures and Inspectors at Meetings of Stockholders. The Board, in advance of any meeting of Stockholders, may appoint one or more inspectors, who may be employees of the Corporation, to act at the meeting and make a written report thereof. The Board may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting, the person presiding at the meeting may 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. The inspectors shall (A) ascertain the number of shares outstanding and the voting power of each, (B) determine the shares represented at the meeting and the validity of proxies and ballots, (C) count all votes and ballots, (D) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors and (E) certify their determination of the number of shares represented at the meeting and

their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of their duties. Unless otherwise provided by the Board, the date and time of the opening and the closing of the polls for each matter upon which the Stockholders will vote at a meeting shall be determined by the person presiding at the meeting and shall be announced at the meeting. No ballot, proxies, votes or any revocation thereof or change thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery of the State of Delaware upon application by a Stockholder shall determine otherwise. In determining the validity and counting of proxies and ballots cast at any meeting of Stockholders, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for office at an election may serve as an inspector at such election.

2.11 Conduct of Meetings; Adjournment. The Board may adopt such rules and procedures for the conduct of Stockholder meetings as it deems appropriate. At each meeting of Stockholders, the President or, in the absence of the President, the Chairman or, if there is no Chairman or if there be one and the Chairman is absent, a Vice President and, in case more than one Vice President shall be present, that Vice President designated by the Board (or in the absence of any such designation, the most senior Vice President present), shall preside over the meeting. Except to the extent inconsistent with the rules and procedures as adopted by the Board, the person presiding over the meeting of Stockholders shall have the right and authority to convene, adjourn and reconvene the meeting from time to time, to prescribe such additional rules and procedures and to do all such acts as, in the judgment of such person, are appropriate for the proper conduct of the meeting. Such rules and procedures, whether adopted by the Board or prescribed by the person presiding over the meeting, may include, (A) the establishment of an agenda or order of business for the meeting, (B) rules and procedures for maintaining order at the meeting and the safety of those present, (C) limitations on attendance at or participation in the meeting to Stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the person presiding over the meeting shall determine, (D) restrictions on entry to the meeting after the time fixed for the commencement thereof and (E) limitations on the time allotted to questions or comments by participants. The person presiding over any meeting of Stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, may determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, he or she shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the person presiding over the meeting, meetings of Stockholders shall not be required to be held in accordance with the rules of parliamentary procedure. The Secretary or, in his or her absence, one of the Assistant Secretaries, shall act as secretary of the meeting. If none of the officers above designated to act as the person presiding over the meeting or as secretary of the meeting shall be present, a person presiding over the meeting or a secretary of the meeting, as the case may be, shall be designated by the Board and, if the Board has not so acted, in the case of the designation of a person to act as secretary of the meeting, designated by the person presiding over the meeting.

2.12 Order of Business. The order of business at all meetings of Stockholders shall be as determined by the person presiding over the meeting.

2.13 Written Consents of Stockholders Without a Meeting.

(A) Any person seeking to have the Stockholders authorize or take corporate action by written consent without a meeting shall, by written notice addressed to the Secretary and delivered to the Corporation, request that a record date be fixed for such purpose. The Board of Directors shall promptly, but in all events within ten days after the date on which such written notice is received, adopt a resolution fixing the record date (unless a record date has previously been fixed by the Board of Directors pursuant to Section 2.4). If no record date has been fixed by the Board of Directors by ten days after the date on which such written notice is received, the record date for determining Stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is required by applicable law, shall be as specified in Section 2.4(B)(ii).

(B) Any action to be taken at any annual or special meeting of 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 to be so taken, shall be signed by the holders of outstanding shares of the Corporation 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 (by hand or by certified or registered mail, return receipt requested) to the Corporation by delivery to its registered office in the State of 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. 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 in the manner required by this Section 2.13, written consents signed by a sufficient number of holders to take action are delivered to the Corporation as aforesaid. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall, to the extent required by applicable law, be given to those Stockholders who have not consented in writing, and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation.

ARTICLE 3

DIRECTORS

3.1 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board. The Board may adopt such rules and procedures, not inconsistent with the Certificate of Incorporation, these By-laws or

applicable law, as it may deem proper for the conduct of its meetings and the management of the Corporation.

3.2 Number; Term of Office. The Board shall consist of seven members. Each Director shall hold office until a successor is duly elected and qualified or until the Director's earlier death, resignation, disqualification or removal.

3.3 Nominations of Directors.

(A) Only persons who are nominated in accordance with the procedures set forth in this Section 3.3 are eligible for election as Directors.

(B) Nominations of persons for election to the Board may only be made at a meeting properly called for the election of Directors and only (i) by or at the direction of the Board or any committee thereof or (ii) by a Stockholder who (a) was a Stockholder of record of the Corporation when the notice required by this Section 3.3 is delivered to the Secretary of the Corporation and at the time of the meeting, (b) is entitled to vote for the election of Directors at the meeting and (c) complies with the notice and other provisions of this Section 3.3. Section 3.3(B)(ii) is the exclusive means by which a Stockholder may nominate a person for election to the Board. Persons nominated in accordance with Section 3.3(B)(ii) are referred to as "Stockholder Nominees". A Stockholder nominating persons for election to the Board is referred to as the "Nominating Stockholder".

(C) All nominations of Stockholder Nominees must be made by timely written notice given by or on behalf of a Stockholder of record of the Corporation (the "Notice of Nomination"). To be timely, the Notice of Nomination must be delivered personally or mailed to and received at the Office of the Corporation, addressed to the attention of the Secretary of the Corporation, by the following dates:

(i) in the case of the nomination of a Stockholder Nominee for election to the Board at an annual meeting of Stockholders, no earlier than 120 days and no later than 90 days before the first anniversary of the date of the prior year's annual meeting of Stockholders; provided, however, that if (a) the annual meeting of Stockholders is advanced by more than 30 days, or delayed by more than 60 days, from the first anniversary of the prior year's annual meeting of Stockholders or (b) no annual meeting was held during the prior year, notice by the Stockholder to be timely must be received (1) no earlier than 120 days before such annual meeting and (2) no later than the later of 90 days before such annual meeting and the tenth day after the day on which the notice of such annual meeting was made by mail or Public Disclosure and

(ii) in the case of the nomination of a Stockholder Nominee for election to the Board at a special meeting of Stockholders, no earlier than 120 days before and no later than the later of 90 days before such special meeting and the tenth day after the day on which the notice of such special meeting was made by mail or Public Disclosure.

(D) Notwithstanding anything to the contrary, if the number of Directors to be elected to the Board at a meeting of Stockholders is increased and there is no Public Disclosure by the Corporation naming the nominees for the additional directorships at least 100 days before the first anniversary of the preceding year's annual meeting, a Notice of Nomination shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered personally and received at the Office of the Corporation, addressed to the attention of the Secretary of the Corporation, no later than the close of business on the tenth day following the day on which such Public Disclosure is first made by the Corporation.

(E) In no event shall an adjournment, postponement or deferral, or Public Disclosure of an adjournment, postponement or deferral, of an annual or special meeting commence a new time period (or extend any time period) for the giving of the Notice of Nomination.

(F) The Notice of Nomination shall set forth:

(i) the Stockholder Information with respect to each Nominating Stockholder and Stockholder Associated Person;

(ii) a representation that each Stockholder nominating a Stockholder Nominee is a holder of record of stock of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose such nomination;

(iii) all information regarding each Stockholder Nominee and Stockholder Associated Person that would be required to be disclosed in a solicitation of proxies subject to Section 14 of the Exchange Act, the written consent of each Stockholder Nominee to being named in a proxy statement as a nominee and to serve if elected.

(iv) with respect to any and all of the agreements, contracts, understandings, arrangements, proxies or other relationships referred to in the foregoing subclause (iii), a representation that such Nominating Stockholder will notify the Corporation in writing of any such agreement, contract, understanding, arrangement, proxy or other relationship that are or will be in effect as of the date of such annual meeting no later than five business days before the date of such meeting;

(v) a representation as to whether such Nominating Stockholder intends (a) to deliver a proxy statement and form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve the nomination or (b) otherwise to solicit proxies from stockholders in support of such nomination; and

(vi) all other information that would be required to be filed with the SEC if the Nominating Stockholders and Stockholder Associated Person were participants in a solicitation subject to Section 14 of the Exchange Act.

(G) The person presiding over the meeting shall, if the facts warrant, determine and declare to the meeting that any proposed nomination of a Stockholder Nominee was not made in accordance with the procedures set forth in this Section 3.3 and, if he or she should so determine, he or she shall so declare to the meeting and the defective nomination shall be disregarded.

(H) If the Stockholder (or a qualified representative of the Stockholder) does not appear at the applicable Stockholder meeting to nominate the Stockholder Nominees, such nomination shall be disregarded and such business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 3.3, to be considered a qualified representative of the Stockholder, a person must be a duly authorized officer, manager or partner of such Stockholder or must be authorized by a writing executed by such Stockholder or an electronic transmission delivered by such Stockholder to act for such Stockholder as proxy at the meeting of Stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of Stockholders.

(I) Nothing in this Section 3.3 shall be deemed to affect any rights of the holders of any series of preferred stock of the Corporation pursuant to any applicable provision of the Certificate of Incorporation.

3.4 Resignation. Any Director may resign at any time by notice given in writing or by electronic transmission to the Secretary. Such resignation shall take effect at the date of receipt of such notice or at such later time as is therein specified.

3.5 Regular Meetings. Regular meetings of the Board may be held without notice at such times and at such places as may be determined from time to time by the Board or its Chairman.

3.6 Special Meetings. Special meetings of the Board may be held at such times and at such places as may be determined by the Chairman or the President on at least 24 hours' notice to each Director given by one of the means specified in Section 3.9 hereof other than by mail or on at least three days' notice if given by mail. Special meetings shall be called by the Chairman, President or Secretary in like manner and on like notice on the written request of any two or more Directors.

3.7 Telephone Meetings. Board or Board committee meetings may be held by means of telephone conference or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation by a Director in a meeting pursuant to this Section 3.7 shall constitute presence in person at such meeting.

3.8 Adjourned Meetings. A majority of the Directors present at any meeting of the Board, including an adjourned meeting, whether or not a quorum is present, may adjourn and reconvene such meeting to another time and place. At least 24 hours' notice of any adjourned meeting of the Board shall be given to each Director

whether or not present at the time of the adjournment, if such notice shall be given by one of the means specified in Section 3.9 hereof other than by mail, or at least three days' notice if by mail. Any business may be transacted at an adjourned meeting that might have been transacted at the meeting as originally called.

3.9 Notice Procedure. Subject to Sections 3.6 and 3.10 hereof, whenever notice is required to be given to any Director by applicable law, the Certificate of Incorporation or these By-laws, such notice shall be deemed given effectively if given in person or by telephone, mail addressed to such Director at such Director's address as it appears on the records of the Corporation, telegram, telecopy or by other means of electronic transmission.

3.10 Waiver of Notice. Whenever the giving of any notice to Directors is required by applicable law, the Certificate of Incorporation or these By-laws, a waiver thereof, given by the Director entitled to the notice, whether before or after such notice is required, shall be deemed equivalent to notice. Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except when the Director attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special Board or committee meeting need be specified in any waiver of notice.

3.11 Organization. At each meeting of the Board, the Chairman or, in his or her absence, another Director selected by the Board shall preside. The Secretary shall act as secretary at each meeting of the Board. If the Secretary is absent from any meeting of the Board, an Assistant Secretary shall perform the duties of secretary at such meeting; and in the absence from any such meeting of the Secretary and all Assistant Secretaries, the person presiding at the meeting may appoint any person to act as secretary of the meeting.

3.12 Quorum of Directors. The presence of a majority of the Board shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board.

3.13 Action by Majority Vote. Except as otherwise expressly required by these By-laws (including the subsequent sentence) or the Certificate of Incorporation, 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.

3.14 Action Without Meeting. Unless otherwise restricted by these By-laws, any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all Directors or members of such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writings or electronic transmissions are filed with the minutes of proceedings of the Board or committee.

ARTICLE 4

COMMITTEES OF THE BOARD

The Board may designate one or more committees, each committee to consist of one or more of the Directors of the Corporation with such power and authority as the Board determines; provided, however, that the designation of any such committee and the power and authority granted thereto (other than an audit committee or compensation committee having customary powers and authorities for such respective committees) shall require the affirmative vote of two-thirds of the Directors. The Board 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. If a member of a committee shall be absent from any meeting, or disqualified from voting thereat, the remaining member or members present at the meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may, by a unanimous vote, appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent permitted by applicable law, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers that may require it to the extent so authorized by the Board. Unless the Board provides otherwise, at all meetings of such committee, a majority of the then authorized members of the committee shall constitute a quorum for the transaction of business, and the vote of a majority of the members of the committee present at any meeting at which there is a quorum shall be the act of the committee. Each committee shall keep regular minutes of its meetings. Unless the Board provides otherwise, each committee designated by the Board may make, alter and repeal rules and procedures for the conduct of its business. In the absence of such rules and procedures each committee shall conduct its business in the same manner as the Board conducts its business pursuant to ARTICLE 3.

ARTICLE 5

OFFICERS

5.1 Positions; Election. The officers of the Corporation shall be a Chairman, a President or number of Presidents, a Secretary, a Treasurer and any other officers as the Board may elect from time to time, who shall exercise such powers and perform such duties as shall be determined by the Board from time to time. Any number of offices may be held by the same person.

5.2 Term of Office. Each officer of the Corporation shall hold office until such officer's successor is elected and qualifies or until such officer's earlier death, resignation or removal. Any officer may resign at any time upon written notice to the Corporation. Such resignation shall take effect at the date of receipt of such notice or at

such later time as is therein specified. The resignation of an officer shall be without prejudice to the contract rights of the Corporation, if any. Any officer may be removed at any time with or without cause by the Board. Any vacancy occurring in any office of the Corporation may be filled by the Board. The election or appointment of an officer shall not of itself create contract rights.

5.3 Chairman. The Chairman shall preside at all meetings of the Board and shall exercise such powers and perform such other duties as shall be determined from time to time by the Board.

5.4 Chief Executive Officer. The Chief Executive Officer shall be the principal executive officer of the Corporation and, subject to the control of the Board, shall in general determine the direction and goals of the Corporation and supervise and control all of the business, operations and affairs of the Corporation. The Chief Executive Officer shall have authority, subject to such rules as may be prescribed by the Board, to appoint such agents and employees of the Corporation as the Chief Executive Officer may deem necessary, to prescribe their powers and duties, and to delegate authority to them. Such agents and employees shall hold office at the discretion of the Chief Executive Officer. The Chief Executive Officer shall have authority, co-equal with the Chairman of the Board, to sign, execute and acknowledge, on behalf of the Corporation, all deeds, mortgages, bonds, stock certificates, contracts, leases, reports and all other documents or instruments necessary or proper to be executed in the course of the Corporation's regular business, or which shall be authorized by resolution of the Board; and, except as otherwise provided by law or by the Board, the Chief Executive Officer may authorize any President or Vice President or any other officer or agent of the Corporation to sign, execute and acknowledge such documents or instruments in the Chief Executive Officer's place and stead.

5.5 President. The President (or in the event there is more than one President, reference under these By-Laws shall refer to any President (to the extent the context requires)) shall have general supervision over the business of the Corporation and other duties incident to the office of President, and any other duties as may from time to time be assigned to the President by the Board and subject to the control of the Board in each case. The President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts and other instruments, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these By-laws to some other officer or agent of the Corporation, or shall be required by applicable law otherwise to be signed or executed.

5.6 Vice Presidents. Vice Presidents shall have the duties incident to the office of Vice President and any other duties that may from time to time be assigned to the Vice President by the President or the Board. Any Vice President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these By-laws to some other officer or agent of the Corporation, or shall be required by applicable law otherwise to be signed or executed.

5.7 Secretary. The Secretary shall attend all meetings of the Board and of the Stockholders, record all the proceedings of the meetings of the Board and of the Stockholders in a book to be kept for that purpose and perform like duties for committees of the Board, when required. The Secretary shall give, or cause to be given, notice of all special meetings of the Board and of the Stockholders and perform such other duties as may be prescribed by the Board or by the President. The Secretary shall have custody of the corporate seal of the Corporation, and the Secretary or an Assistant Secretary, shall have authority to affix the same on any instrument that may require it, and when so affixed, the seal may be attested by the signature of the Secretary or by the signature of such Assistant Secretary. The Board may give general authority to any other officer to affix the seal of the Corporation and to attest the same by such officer's signature. The Secretary or an Assistant Secretary may also attest all instruments signed by the President or any Vice President. The Secretary shall have charge of all the books, records and papers of the Corporation relating to its organization and management, see that the reports, statements and other documents required by applicable law are properly kept and filed and, in general, perform all duties incident to the office of Secretary of a corporation and such other duties as may from time to time be assigned to the Secretary by the Board or the President.

5.8 Treasurer. The Treasurer shall have charge and custody of, and be responsible for, all funds, securities and notes of the Corporation, receive and give receipts for moneys due and payable to the Corporation from any sources whatsoever; deposit all such moneys and valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board, against proper vouchers, cause such funds to be disbursed by checks or drafts on the authorized depositories of the Corporation signed in such manner as shall be determined by the Board and be responsible for the accuracy of the amounts of all moneys so disbursed, regularly enter or cause to be entered in books or other records maintained for the purpose full and adequate account of all moneys received or paid for the account of the Corporation, have the right to require from time to time reports or statements giving such information as the Treasurer may desire with respect to any and all financial transactions of the Corporation from the officers or agents transacting the same, render to the President or the Board, whenever the President or the Board shall require the Treasurer so to do, an account of the financial condition of the Corporation and of all financial transactions of the Corporation, disburse the funds of the Corporation as ordered by the Board and, in general, perform all duties incident to the office of Treasurer of a corporation and such other duties as may from time to time be assigned to the Treasurer by the Board or the President.

5.9 Assistant Secretaries and Assistant Treasurers. Assistant Secretaries and Assistant Treasurers shall perform such duties as shall be assigned to them by the Secretary or by the Treasurer, respectively, or by the Board or the President.

ARTICLE 6

INDEMNIFICATION

6.1 Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another entity or enterprise, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 6.3, the Corporation shall be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person only if the commencement of such Proceeding (or part thereof) by the Covered Person was authorized by the Board.

6.2 Prepayment of Expenses. To the extent not prohibited by applicable law, the Corporation shall pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any Proceeding in advance of its final disposition; provided, however, that, to the extent required by applicable law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this ARTICLE 6 or otherwise.

6.3 Claims. If a claim for indemnification or advancement of expenses under this ARTICLE 6 is not paid in full within 30 days after a written claim therefor by the Covered Person has been received by the Corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

6.4 Nonexclusivity of Rights. The rights conferred on any Covered Person by this ARTICLE 6 shall not be exclusive of any other rights that such Covered Person may have or hereafter acquire under any statute, provision of these By-laws, the Certificate of Incorporation, agreement, vote of stockholders or disinterested directors or otherwise.

6.5 Other Sources. The Corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a

director, officer, employee or agent of another entity or enterprise shall be reduced by any amount such Covered Person actually collects as indemnification or advancement of expenses from such other entity or enterprise, provided, however, that no Covered Person shall be required to seek recovery from any other entity or enterprise.

6.6 Amendment or Repeal. Notwithstanding anything to the contrary contained herein, any repeal or amendment of this ARTICLE 6 by the Stockholders or by changes in law, or the adoption of any other provision of these By-laws inconsistent with this ARTICLE 6, will, unless otherwise required by law, be prospective only (except to the extent such amendment or change in law permits the Corporation to provide broader rights on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection of a Covered Person existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

6.7 Other Indemnification and Prepayment of Expenses. This ARTICLE 6 shall not limit the right of the Corporation, to the extent and in the manner permitted by applicable law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

ARTICLE 7

GENERAL PROVISIONS

7.1 Certificates Representing Shares. The shares of stock of the Corporation shall be represented by certificates or all of such shares shall be uncertificated shares that may be evidenced by a book-entry system maintained by the registrar of such stock, or a combination of both. If shares are represented by certificates (if any) such certificates shall be in the form 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, the President or any Vice President, and by the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer. Any or all such signatures may be facsimiles. 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.

7.2 Transfer and Registry Agents. The Corporation may from time to time maintain one or more transfer offices or agents and registry offices or agents at such place or places as may be determined from time to time by the Board.

7.3 Lost, Stolen or Destroyed Certificates. The Corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the

lost, stolen or destroyed certificate or his legal representative to give the Corporation a bond sufficient to indemnify it 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 such new certificate.

7.4 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 maintained on any information storage device or method; provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to applicable law.

7.5 Seal. The corporate seal shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

7.6 Fiscal Year. The fiscal year of the Corporation shall be determined by the Board.

7.7 Amendments. Except as otherwise expressly provided for herein, these By-laws may be amended or repealed and new By-laws may be adopted by the Board; provided that the Stockholders may make additional By-laws and may alter and repeal any By-laws whether such By-laws were originally adopted by them or otherwise, provided, however, that no action to repeal or amend Section 2.3(b), Section 2.9, Section 3.2, Section 3.13, this Section 7.7 or Article IV, or the adoption of any other provision of these By-laws inconsistent with such Sections and Articles, shall be effective without the affirmative vote of either (x) holders of at least sixty percent (60%) of the voting power of shares entitled to vote at an election of Directors or (y) two-thirds vote of the Directors.

7.8 Conflict with Applicable Law or Certificate of Incorporation. These By-laws are adopted subject to any applicable law and the Certificate of Incorporation. Whenever these By-laws may conflict with any applicable law or the Certificate of Incorporation, such conflict shall be resolved in favor of such law or the Certificate of Incorporation.