

07-01-2004

WEMMH-1594 (4/03)

Form PTO-1594  
(Rev. 03/01)  
OMB No. 0651-0027 (exp. 5/31/2002)

REC



U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

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Tab settings → → →

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Brightpoint, Inc.

6.22.04

- Individual(s)
- General Partnership
- Corporation-State
- Other \_\_\_\_\_
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other \_\_\_\_\_
- Merger
- Change of Name

Execution Date: June 3, 2004

2. Name and address of receiving party(ies)

Name: Brightpoint, Inc.

Internal

Address: \_\_\_\_\_

Street Address: 501 Airtech Parkway

City: Plainfield State: Indiana Zip: 46168

- Individual(s) citizenship \_\_\_\_\_
- Association \_\_\_\_\_
- General Partnership \_\_\_\_\_
- Limited Partnership \_\_\_\_\_
- Corporation-State Indiana
- Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No

(Designations must be a separate document from assignment)  
Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

78/259,403, 78/260,049, 78/368,682, 78/368,830,  
78/372,845, 78/372,846

B. Trademark Registration No.(s)

2,095,698, 2,170,782, 2,247,244, 2,353,363, 2,729,911,  
2,825,587

Additional number(s) attached  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Holiday W. Banta

Internal Address: Woodard, Emhardt, Moriarty, McNett  
& Henry LLP

Street Address: Bank One Center/Tower, 111 Monument  
Circle, Suite 3700

City: Indianapolis State: Indiana Zip: 46204

6. Total number of applications and registrations involved: \_\_\_\_\_

12

7. Total fee (37 CFR 3.41) ..... \$ 315.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: \_\_\_\_\_

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Holiday W. Banta  
Name of Person Signing

Holiday W. Banta  
Signature

June 22, 2004  
Date

Total number of pages including cover sheet, attachments, and document: 39

Mail documents to be recorded with required cover sheet information to:

Director of the U.S. Patent and Trademark Office, Mail Stop Assignment Recordation Services  
Washington, D.C. 20231  
VIA FACSIMILE (703) 306-5995

06/30/2004 ECOOPER 00000060 78259403

01 FC:8521  
02 FC:8522

40.00 DP  
275.00 DP



06-25-2004

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

TRADEMARK  
REEL: 003001 FRAME: 0106

State of Indiana  
Office of the Secretary of State

CERTIFICATE OF MERGER

of

**BRIGHTPOINT INDIANA CORP.**

I, TODD ROKITA, Secretary of State of Indiana, hereby certify that Articles of Merger of the above For-Profit Domestic Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Business Corporation Law.

The following non-surviving entity(s):

**BRIGHTPOINT, INC.**

a(n) Delaware For-Profit Foreign Corporation qualified in Indiana

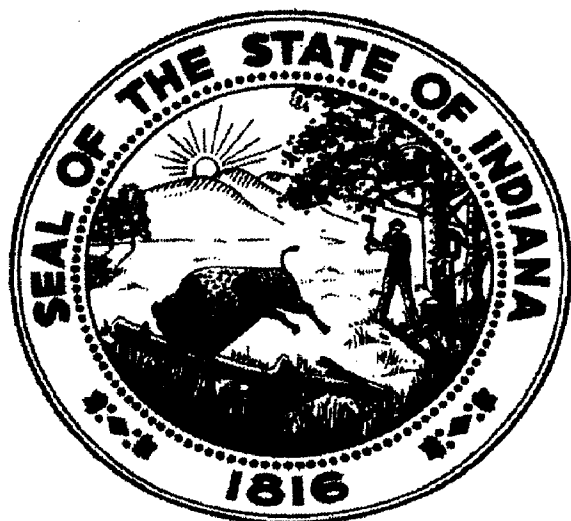
merged with and into the surviving entity:

**BRIGHTPOINT INDIANA CORP.**

The name following said transaction will be:

**BRIGHTPOINT, INC.**

NOW, THEREFORE, with this document I certify that said transaction will become effective Thursday, June 03, 2004.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, June 3, 2004.

A handwritten signature in black ink, appearing to read "Todd Rokita".

TODD ROKITA,  
SECRETARY OF STATE

2004042700062 / 2004060302248

ARTICLES OF MERGER

RECORDED  
CORPORATION DIV.

OF

04 JUN -3 PM 1:53

BRIGHTPOINT, INC.

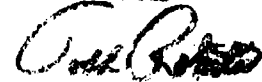
INTO

BRIGHTPOINT INDIANA CORP.

In accordance with the requirements of the Indiana Business Corporation Law, the undersigned corporation surviving a merger pursuant to Indiana Code §§ 23-1-40-1 and 23-1-40-7 (the "Merger"), sets forth the following facts:

APPROVED  
AND  
FILED

ARTICLE I  
Surviving Corporation



The name of the corporation surviving the Merger is Brightpoint Indiana Corp. (the "Surviving Corporation"). The name of the Surviving Corporation will be changed to "Brightpoint, Inc." as a result of the Merger. The Surviving Corporation is an Indiana corporation incorporated on April 23, 2004.

ARTICLE II  
Merging Corporation

The name of the corporation merging with and into the Surviving Corporation (the "Merging Corporation") is Brightpoint, Inc. The Merging Corporation is a Delaware corporation formed on February 2, 1994.

ARTICLE III  
Plan of Merger

The Plan and Agreement of Merger (the "Plan of Merger") for the Merger of the Merging Corporation with and into the Surviving Corporation containing the information required by Indiana Code §§ 23-1-40-1(b) and 23-1-40-7, is attached hereto as Exhibit A and made a part hereof. Included as Annex 1 and Annex 2 to the Plan of Merger are copies of the Restated Articles of Incorporation and Amended and Restated By-laws, respectively, that are to take effect with respect to the Surviving Corporation upon the effectiveness of the Merger.

ARTICLE IV  
Effective Time

The Merger shall become effective upon the later to occur of (a) completion of the filing of these Articles of Merger with the Indiana Secretary of State and (b) the filing of a Certificate of Merger with the Secretary of State of Delaware.

ARTICLE V  
Manner of Adoption and Vote

Section 1. Action by Surviving Corporation. By unanimous written consent, dated as of April 23, 2004, the Board of Directors of the Surviving Corporation adopted the Plan of Merger. As of April 23, 2004, there was one (1) outstanding share of common stock of the Surviving Corporation entitled to vote on the Plan of Merger. By unanimous written consent, dated as of April 23, 2004, the sole shareholder of the Surviving Corporation approved the Plan of Merger.

Section 2. Action by Merging Corporation. On February 20, 2004, the Board of Directors of the Merging Corporation adopted the Plan of Merger and recommended its approval by its shareholders. As of April 19, 2004, there were 19,298,510 outstanding shares of common stock of the Merging Corporation entitled to vote on the Plan of Merger consisting solely of shares of common stock. The holders of 10,661,281 shares of common stock voted for the adoption of the Plan of Merger at the Annual Meeting of Shareholders held on June 3, 2004. The number of votes cast to approve the Plan of Merger was sufficient to approve the Plan of Merger under Delaware law.

*[Signature Page To Follow]*

IN WITNESS WHEREOF, the Surviving Corporation has caused these Articles of Merger to be signed by its duly authorized officer on this 3rd day of June, 2004.

BRIGHTPOINT INDIANA CORP.

By: 

Steven E. Fivel, President

**PLAN AND AGREEMENT OF MERGER**

23 THIS PLAN AND AGREEMENT OF MERGER ("Merger Agreement") dated as of April 23, 2004, is made by and between BRIGHTPOINT, INC., a Delaware corporation ("Brightpoint Delaware"), and BRIGHTPOINT INDIANA CORP., an Indiana corporation ("Brightpoint Indiana"). Brightpoint Delaware and Brightpoint Indiana are hereinafter sometimes collectively referred to as the "Constituent Corporations."

WHEREAS, the outstanding authorized capital stock of Brightpoint Indiana consists of one (1) share of common stock, par value \$0.01 per share, which is owned by Brightpoint Delaware.

WHEREAS, Brightpoint Delaware, as the sole shareholder of Brightpoint Indiana, desires to effect a merger of Brightpoint Delaware with and into Brightpoint Indiana pursuant to the provisions of the General Corporation Law of the State of Delaware (the "DGCL") and the Indiana Business Corporation Law (the "IBCL").

WHEREAS, the respective Boards of Directors of Brightpoint Delaware and Brightpoint Indiana have determined that it is advisable and in the best interests of each of such corporations that Brightpoint Delaware be merged with and into Brightpoint Indiana upon the terms and subject to the conditions herein provided.

WHEREAS, the Board of Directors of Brightpoint Indiana and Brightpoint Delaware, as the sole shareholder of Brightpoint Indiana, have approved this Merger Agreement by unanimous written consents and directed that it be executed by the undersigned officers.

WHEREAS, the Board of Directors of Brightpoint Delaware has approved this Merger Agreement by unanimous written consent and directed that it be executed by the undersigned officers and that it be submitted to a vote of the shareholders of Brightpoint Delaware at the annual meeting.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties agree that Brightpoint Delaware shall be merged with and into Brightpoint Indiana and that the terms and conditions of the merger, the mode of carrying the merger into effect, the manner of converting the shares of the Constituent Corporations and certain other provisions relating thereto shall be as follows:

**ARTICLE I****THE MERGER**

1.01 Surviving Corporation. Subject to the terms and provisions of this Agreement, and in accordance with the DGCL and the IBCL, at the Effective Time (as defined in Section 1.08 hereof) Brightpoint Delaware shall be merged with and into Brightpoint Indiana (the "Merger"). Brightpoint Indiana shall be the surviving corporation (hereinafter sometimes called the "Surviving Corporation") of the Merger and shall continue its corporate existence under the laws of the State of Indiana. At the Effective Time, the separate corporate existence of Brightpoint Delaware shall cease.

1.02 Name of the Surviving Corporation. As of the Effective Time, the name of the Surviving Corporation will be changed to "Brightpoint, Inc."

1.03 Effect of the Merger. At the Effective Time, the Merger shall have the effects provided for herein and in Section 259 of the DGCL and Section 23-1-40-6 of the IBCL.

1.04 Articles of Incorporation. As of the Effective Time, the Articles of Incorporation of Brightpoint Indiana, as in effect immediately prior to the Effective Time, shall be amended and restated in their entirety by the Restated Articles of Incorporation attached hereto as Annex 1, which Restated Articles of Incorporation will become, at the Effective Time, the Articles of Incorporation of the Surviving Corporation until thereafter duly altered, amended or repealed in accordance with the provisions thereof and applicable law.

1.05 By-Laws. As of the Effective Time, the By-Laws of Brightpoint Indiana, as in effect immediately prior to the Effective Time, shall be amended and restated in their entirety by the By-Laws attached hereto as Annex 2, which By-Laws will become, at the Effective Time, the By-Laws of the Surviving Corporation until thereafter duly altered, amended or repealed in accordance with the provisions thereof, the Articles of Incorporation of the Surviving Corporation and applicable law.

1.06 Directors of the Surviving Corporation. At the Effective Time, each person who is a director of Brightpoint Delaware immediately prior to the Effective Time shall become a director of the Surviving Corporation and each such person shall serve as a director of the Surviving Corporation for the balance of the term for which such person was elected as a director of Brightpoint Delaware and until his or her successor is duly elected and qualified in the manner provided in the By-Laws or the Articles of Incorporation of the Surviving Corporation or as otherwise provided by law or until his or her earlier death, resignation or removal in the manner provided in the By-Laws or the Articles of Incorporation of the Surviving Corporation or as otherwise provided by law.

1.07 Officers of the Surviving Corporation. At the Effective Time, each person who is an officer of Brightpoint Delaware immediately prior to the Effective Time shall become an officer of the Surviving Corporation with each such person to hold the same office in the Surviving Corporation, in accordance with the By-Laws thereof, as he or she held in Brightpoint Delaware immediately prior to the Effective Time.

1.08 Effective Time. The Merger shall become effective in accordance with the provisions of Section 23-1-40-5 of the IBCL and Section 252 of the DGCL, upon the later to occur of (a) completion of the filing of articles of merger with the Secretary of State of Indiana, and (b) the filing of a certificate of merger with the Secretary of State of Delaware; provided, however, that such articles of merger and certificate of merger shall not be filed prior to the date which is 20 calendar days after the date on which a Proxy Statement of Brightpoint Delaware prepared in accordance with the rules of the Securities Exchange Act of 1934, as amended, is mailed to Brightpoint Delaware's shareholders of record on the record date determined by the board of directors of Brightpoint Delaware. The date and time when the Merger shall become effective is herein referred to as the "Effective Time."

1.09 Additional Actions. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any further assignments or assurances in law or any other acts are necessary or desirable (a) to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation, title to and possession of any property or right of Brightpoint Delaware acquired or to be acquired by reason or as a result of the Merger, or (b) otherwise to carry out the purpose of this Merger Agreement, Brightpoint Delaware and its proper officers and directors shall be deemed to have granted hereby to the Surviving Corporation an irrevocable power of

attorney to execute and deliver all such proper deeds, assignments and assurances in law and to do all acts necessary or proper to vest, perfect or confirm title to and the possession of such property or rights in the Surviving Corporation and otherwise to carry out the purposes of this Merger Agreement, and the proper officers and directors of the Surviving Corporation are hereby fully authorized in the name of Brightpoint Delaware to take any and all such action.

## ARTICLE II

### MANNER, BASIS AND EFFECT OF CONVERTING SHARES

#### 2.01 Conversion of Shares. At the Effective Time:

- (a) Each share of Common Stock of Brightpoint Delaware, par value \$0.01 per share ("Delaware Common Stock"), issued and outstanding immediately prior to the Effective Time shall be converted into one fully paid and nonassessable share of Common Stock of Brightpoint Indiana, par value \$0.01 per share ("Indiana Common Stock") by virtue of the Merger and without any action on the part of the holder thereof.
- (b) Each share of Delaware Common Stock held in the treasury of Brightpoint Delaware immediately prior to the Effective Time shall be converted into one fully paid and nonassessable share of Indiana Common Stock by virtue of the Merger and without any action on the part of Brightpoint Delaware and shall be held in the treasury of the Surviving Corporation;
- (c) Each share of Indiana Common Stock, issued and outstanding immediately prior to the Effective Time shall be redeemed, canceled and retired and shall cease to exist by virtue of the Merger and without any action on the part of the holder thereof.

2.02 Effect of Conversion. At and after the Effective Time, each share certificate which immediately prior to the Effective Time represented outstanding shares of Delaware Common Stock ("Delaware Certificate") shall be deemed for all purposes to evidence ownership of, and to represent, the number of shares of Indiana Common Stock into which the shares of Delaware Common Stock represented by such certificate immediately prior to the Effective Time have been converted pursuant to Section 2.01 hereof. The registered owner of any Delaware Certificate outstanding immediately prior to the Effective Time, as such owner appears in the books and records of Brightpoint Delaware or its transfer agent immediately prior to the Effective Time, shall, until such certificate is surrendered for transfer or exchange, have and be entitled to exercise any voting and other rights with respect to and to receive any dividends or other distributions on the shares of Indiana Common Stock into which the shares represented by any such certificate have been converted pursuant to Section 2.01 hereof.

2.03 Exchange of Certificate. Each holder of a Delaware Certificate shall, upon the surrender of such certificate to the Surviving Corporation or its transfer agent for cancellation after the Effective Time, be entitled to receive from the Surviving Corporation or its transfer agent a certificate representing the number of shares of Indiana Common Stock into which the shares of Delaware Common Stock represented by such certificate have been converted pursuant to Section 2.01 hereof.

2.04 Stock Options and Incentive Plans. By virtue of the Merger and without any action on the part of the holder, each right or option to purchase shares of Delaware Common Stock granted under Brightpoint Delaware's 1994 Stock Option Plan, 1996 Stock Option Plan,



Non-Employee Director Stock Option Plan, Independent Director Stock Compensation Plan (collectively, the "Plans") or otherwise as to which Brightpoint Delaware or any of its affiliates has assumed or incurred obligations (hereinafter collectively referred to as the "Options") which is outstanding immediately prior to the Effective Time shall be converted into and become a right or option to purchase the same number of shares of Indiana Common Stock at the same option price per share and upon the same terms and subject to the same conditions as are in effect at the Effective Time. The Surviving Corporation shall reserve for purposes of the Options a number of shares of Indiana Common Stock, equal to the number of shares of Delaware Common Stock reserved by Brightpoint Delaware for issuance under the Options as of the Effective Time. As of the Effective Time, Brightpoint Indiana hereby assumes Brightpoint Delaware's Plans and Options and all obligations of Brightpoint Delaware under the Options and under such Plans.

2.05 Other Employee Benefit Plans. Upon the Effective Time, Brightpoint Indiana will assume all obligations of Brightpoint Delaware under any and all employee benefit plans in effect as of the Effective Time or with respect to which employee rights or accrued benefits are outstanding as of the Effective Time.

2.06 Assumption of Stock Purchase Rights and Rights Agreement. Upon the Effective Time, all outstanding preferred share purchase rights shall be assumed by Brightpoint Indiana and become rights to purchase the Indiana Common Stock with no other changes in the terms and conditions of such preferred share purchase rights, including the exercise price. Upon the Effective Time, Brightpoint Indiana also shall adopt and assume the Rights Agreement as successor to Brightpoint Delaware.

### ARTICLE III

#### APPROVAL; AMENDMENT; ABANDONMENT; MISCELLANEOUS

3.01 Approval. This Merger Agreement shall be submitted for approval by the shareholders of Brightpoint Delaware at the annual meeting of shareholders.

3.02 Amendment. Subject to applicable law, this Merger Agreement may be amended, modified or supplemented by written agreement of the Constituent Corporations at any time prior to the Effective Time, except that after the approval contemplated by Section 3.01 hereof, there shall be no amendments that would (a) alter or change the amount or kind of shares to be received by shareholders in the Merger, (b) alter or change any term of the Restated Articles of Incorporation or By-Laws of the Surviving Corporation that are to take effect as of the Effective Time pursuant to Sections 1.04 and 1.05 hereof, or (c) alter or change any of the terms and conditions of this Merger Agreement if such alteration or change would adversely affect the holders of any class of stock of either of the Constituent Corporations.

3.03 Abandonment. At any time prior to the Effective Time, this Merger Agreement may be terminated and the Merger may be abandoned by the Board of Directors of Brightpoint Indiana or Brightpoint Delaware, or both, notwithstanding approval of this Merger Agreement by the sole shareholder of Brightpoint Indiana and the shareholders of Brightpoint Delaware.

3.04 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and the same agreement.

3.05 Statutory Agent in Indiana. The name and address of the statutory agent of the Surviving Corporation in Indiana upon whom any process, notice or demand against Brightpoint Delaware or the Surviving Corporation may be served are:

Brightpoint, Inc.  
501 Airtech Parkway  
Plainfield, Indiana 46168  
Attention: Corporate Secretary

3.06 Designated Agent in Delaware. The Surviving Corporation agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of Brightpoint Delaware, as well as for enforcement of any obligation of the Surviving Corporation arising from the Merger, and the Surviving Corporation irrevocably appoints the Delaware Secretary of State as its agent to accept service of process in any such suit or other proceedings. A copy of such process is requested to be mailed by the Delaware Secretary of State to:

Brightpoint, Inc.  
501 Airtech Parkway  
Plainfield, Indiana 46168  
Attention: Corporate Secretary

IN WITNESS WHEREOF, Brightpoint Delaware and Brightpoint Indiana have caused this Merger Agreement to be signed by their respective duly authorized officers as of the date first above written.

BRIGHTPOINT INDIANA CORP.  
(an Indiana corporation)

By: 

Steven E. Fivel, President

ATTEST:

By: 

Steven E. Fivel, Secretary

BRIGHTPOINT, INC.,  
(a Delaware corporation)

By: 

Name: Robert J. Laikin

Title: Chairman of the Board and  
Chief Executive Officer

ATTEST:

By: 

Steven E. Fivel, Secretary

**RESTATED ARTICLES OF INCORPORATION**  
**OF**  
**BRIGHTPOINT, INC.**  
**(FORMERLY KNOWN AS BRIGHTPOINT INDIANA CORP.)**

Brightpoint Indiana Corp., an Indiana corporation (the "Corporation"), and the survivor of a merger with Brightpoint, Inc., a Delaware corporation, effected pursuant to a Plan and Agreement of Merger dated April 23, 2004, desiring to amend and restate its Articles of Incorporation pursuant to the Indiana Business Corporation Law (the "Corporation Law") and to change its name, submits the following Restated Articles of Incorporation:

**ARTICLE I**  
**Name**

The name of the Corporation is Brightpoint, Inc.

**ARTICLE II**  
**Purpose and Powers**

**Section 2.1. Purpose of the Corporation.** The purpose for which the Corporation is formed is to engage in the transaction of any or all lawful business for which corporations may now or hereafter be incorporated under the Corporation Law.

**Section 2.2. Powers of the Corporation.** The Corporation shall have (a) all powers now or hereafter authorized by or vested in corporations pursuant to the provisions of the Corporation Law, (b) all powers now or hereafter vested in corporations by common law or any other statute or act and (c) all powers authorized by or vested in the Corporation by the provisions of these Restated Articles of Incorporation or by the provisions of its By-Laws as from time to time in effect.

**ARTICLE III**  
**Term of Existence**

The period during which the Corporation shall continue is perpetual.

ARTICLE IV  
Registered Office and Agent

The street address of the Corporation's registered office at the time of adoption of these Restated Articles of Incorporation is 251 E. Ohio Street, Suite 500, Indianapolis, Indiana 46204, and the name of its registered agent at such office at the time of adoption of these Restated Articles of Incorporation is the Corporation Service Company.

ARTICLE V  
Authorized Shares

Section 5.1. Authorized Classes and Number of Shares. The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 101,000,000 shares, of which 100,000,000 shares shall be common stock, par value \$0.01 per share ("Common Stock"), and 1,000,000 shares shall be preferred stock, par value \$0.01 per share ("Preferred Stock").

Section 5.2. General Terms of All Shares. The Corporation shall have the power to acquire (by purchase, redemption or otherwise), hold, own, pledge, sell, transfer, assign, reissue, cancel or otherwise dispose of the shares of the Corporation in the manner and to the extent now or hereafter permitted by the laws of the State of Indiana (but such power shall not imply an obligation on the part of the owner or holder of any share to sell or otherwise transfer such share to the Corporation), including the power to purchase, redeem or otherwise acquire the Corporation's own shares, directly or indirectly, and without pro rata treatment of the owners or holders of any class or series of shares, unless, after giving effect thereto, the Corporation would not be able to pay its debts as they become due in the usual course of business or the Corporation's total assets would be less than its total liabilities (calculated without regard to any amounts that would be needed, if the Corporation were to be dissolved at the time of the purchase, redemption or other acquisition, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those of the holders of the shares of the Corporation being purchased, redeemed or otherwise acquired, unless otherwise expressly provided with respect to a series of Preferred Stock in the provisions of these Restated Articles of Incorporation describing the terms of such series). Shares of the Corporation purchased, redeemed or otherwise acquired by it shall constitute authorized but unissued shares, unless prior to any such purchase, redemption or other acquisition, or within thirty (30) days thereafter, the Board of Directors adopts a resolution providing that such shares constitute authorized and issued but not outstanding shares.

The Board of Directors of the Corporation may dispose of, issue and sell shares in accordance with, and in such amounts as may be permitted by, the laws of the State of Indiana and the provisions of these Restated Articles of Incorporation and for such consideration, at such price or prices, at such time or times and upon such terms and conditions (including the privilege of selectively repurchasing the same) as the Board of Directors of the Corporation shall determine, without the authorization or approval by any shareholders of the Corporation. Shares may be disposed of, issued and sold to such persons, firms or entities as the Board of Directors may determine, without any preemptive or other right on the part of the owners or holders of other

shares of the Corporation of any class or kind to acquire such shares by reason of their ownership of such other shares.

When the Corporation receives the consideration specified in a subscription agreement entered into before incorporation, or for which the Board of Directors authorized the issuance of shares, as the case may be, the shares issued therefor shall be fully paid and nonassessable.

The Corporation shall have the power to declare and pay dividends or other distributions upon the issued and outstanding shares of the Corporation, subject to the limitation that a dividend or other distribution may not be made if, after giving it effect, the Corporation would not be able to pay its debts as they become due in the usual course of business or the Corporation's total assets would be less than its total liabilities (calculated without regard to any amounts that would be needed, if the Corporation were to be dissolved at the time of the dividend or other distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those of the holders of shares receiving the dividend or other distribution, unless otherwise expressly provided with respect to a series of Preferred Stock in the provisions of these Restated Articles of Incorporation describing the terms of such series). The Corporation shall have the power to issue shares of one class or series as a share dividend or other distribution in respect of that class or series or one or more other classes or series.

Section 5.3. Voting Rights of Shares.

(a) Common Stock. Except as otherwise provided by the Corporation Law and subject to any voting rights that may be conferred upon the holders of any series of the Preferred Stock established by the Board of Directors pursuant to authority herein provided, the Common Stock has unlimited voting rights and, when validly issued by the Corporation, each outstanding share of Common Stock shall entitle the record holder thereof to one vote at all shareholders' meetings on all matters submitted to a vote of the shareholders of the Corporation.

(b) Preferred Stock. Except as required by the Corporation Law or by the provisions of these Restated Articles of Incorporation describing the terms of the Preferred Stock or a series thereof, the holders of Preferred Stock shall have no voting rights or powers. When validly issued by the Corporation, shares of Preferred Stock shall entitle the record holder thereof to vote as and on such matters, but only as and on such matters, as the holders thereof are entitled to vote under the Corporation Law or under the provisions of these Restated Articles of Incorporation describing the terms of the Preferred Stock or a series thereof (which provisions may provide for special, conditional, limited or unlimited voting rights, including multiple or fractional votes per share, or for no right to vote, except to the extent required by the Corporation Law) and subject to such shareholder disclosure and recognition procedures (which may include voting prohibition sanctions) as the Corporation may by action of the Board of Directors establish.

Section 5.4. Other Terms of Common Stock. The shares of Common Stock shall be equal in every respect insofar as their relationship to the Corporation is concerned, but such equality of rights shall not imply equality of treatment as to redemption or other acquisition of

shares by the Corporation. Subject to the rights of the holders of any outstanding Preferred Stock, the holders of Common Stock shall be entitled to share ratably in such dividends or other distributions (other than purchases, redemptions or other acquisitions of shares by the Corporation), if any, as are declared and paid from time to time on the Common Stock at the discretion of the Board of Directors. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, after payment shall have been made to the holders of the Preferred Stock of the full amount to which they shall be entitled under this Article V, the holders of Common Stock shall be entitled, to the exclusion of the holders of the Preferred Stock of any and all series, to share, ratably according to the number of shares of Common Stock held by them, in all remaining assets of the Corporation available for distribution to its shareholders.

Section 5.5. Other Terms of Preferred Stock.

(a) Preferred Stock may be issued from time to time in one or more series, each such series to have such distinctive designation and such preferences, limitations and relative voting and other rights as shall be set forth in these Restated Articles of Incorporation. Subject to the requirements of the Corporation Law and subject to all other provisions of these Restated Articles of Incorporation, the Board of Directors of the Corporation may create one or more series of Preferred Stock and may determine the preferences, limitations and relative voting and other rights of one or more series of Preferred Stock before the issuance of any shares of that series by the adoption of an amendment to these Restated Articles of Incorporation that specifies the terms of the series of Preferred Stock. All shares of a series of Preferred Stock must have preferences, limitations and relative voting and other rights identical with those of other shares of the same series and, if the description of the series set forth in these Restated Articles of Incorporation so provides, no series of Preferred Stock need have preferences, limitations or relative voting or other rights identical with those of any other series of Preferred Stock.

Before issuing any shares of a series of Preferred Stock, the Board of Directors shall adopt an amendment to these Restated Articles of Incorporation, which shall be effective without any shareholder approval or other action, that sets forth the preferences, limitations and relative voting and other rights of the series, and authority is hereby expressly vested in the Board of Directors by such amendment:

(1) To fix the distinctive designation of such series and the number of shares which shall constitute such series, which number may be increased or decreased (but not below the number of shares thereof then outstanding) from time to time by action of the Board of Directors;

(2) To fix the voting rights of such series, which may consist of special, conditional, limited or unlimited voting rights, including multiple or fractional votes per share, or no right to vote (except to the extent required by the Corporation Law);

(3) To fix the dividend or distribution rights of such series and the manner of calculating the amount and time for payment of dividends or distributions, including, but not limited to:

(A) the dividend rate, if any, of such series;

(B) any limitations, restrictions or conditions on the payment of dividends or other distributions, including whether dividends or other distributions shall be noncumulative or cumulative or partially cumulative and, if so, from which date or dates;

(C) the relative rights of priority, if any, of payment of dividends or other distributions on shares of that series in relation to Common Stock and shares of any other series of Preferred Stock; and

(D) the form of dividends or other distributions, which may be payable at the option of the Corporation, the shareholder or another person (and in such case to prescribe the terms and conditions of exercising such option), or upon the occurrence of a designated event in cash, indebtedness, stock or other securities or other property, or in any combination thereof,

and to make provisions, in the case of dividends or other distributions payable in stock or other securities, for adjustment of the dividend or distribution rate in such events as the Board of Directors shall determine;

(4) To fix the price or prices at which, and the terms and conditions on which, the shares of such series may be redeemed or converted, which may be

(A) at the option of the Corporation, the shareholder or another person or upon the occurrence of a designated event;

(B) for cash, indebtedness, securities or other property or any combination thereof; and

(C) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;

(5) To fix the amount or amounts payable upon the shares of such series in the event of any liquidation, dissolution or winding up of the Corporation and the relative rights of priority, if any, of payment upon shares of such series in relation to shares of Common Stock and shares of any other series of Preferred Stock; and to

determine whether or not any such preferential rights upon dissolution need be considered in determining whether or not the Corporation may make dividends, repurchases or other distributions;

(6) To determine whether or not the shares of such series shall be entitled to the benefit of a sinking fund to be applied to the purchase or redemption of such series and, if so entitled, the amount of such fund and the manner of its application;

(7) To determine whether or not the issue of any additional shares of such series or of any other series in addition to such series shall be subject to restrictions in addition to restrictions, if any, on the issue of additional shares imposed in the provisions of these Restated Articles of Incorporation fixing the terms of any outstanding series of Preferred Stock and, if subject to additional restrictions, the extent of such additional restrictions; and

(8) Generally to fix the other preferences or rights, and any qualifications, limitations or restrictions of such preferences or rights, of such series to the full extent permitted by the Corporation Law; provided, however, that no such preferences, rights, qualifications, limitations or restrictions shall be in conflict with these Restated Articles of Incorporation or any amendment hereof.

(b) Shares of Preferred Stock of any series that have been redeemed (whether through the operation of a sinking fund or otherwise) or purchased by the Corporation, or which, if convertible, have been converted into shares of the Corporation of any other class or series, may be reissued as a part of such series or of any other series of Preferred Stock, subject to such limitations (if any) as may be specified or provided for in the provisions of these Restated Articles of Incorporation describing the terms of any series of Preferred Stock.

Section 5.6. Terms of the Series A Participating Cumulative Preferred Stock. Twenty-Two Thousand (22,000) shares of Preferred Stock are hereby designated "Series A Participating Cumulative Preferred Stock." The powers, designations, preferences and relative participating, optional and other special rights, and the qualifications, limitations or restrictions of the Series A Participating Cumulative Preferred Stock, in addition to those set forth in these Restated Articles of Incorporation that are applicable to shares of Preferred Stock of all series, are as follows:

(a) Designation and Number of Shares. The shares of such series shall be designated as "Series A Junior Participating Cumulative Preferred Stock" ("Series A Preferred Stock"). The number of shares initially constituting the Series A Preferred Stock shall be 22,000; provided, however, that, if more than a total of 22,000 shares of Series A Preferred Stock shall be at any time issuable upon the exercise of Rights (the "Rights") issued pursuant to the Rights Agreement, dated as of February 20, 1997, between the predecessor of the Corporation and Continental Stock Transfer & Trust Company, as Rights Agent, as amended from time to time (the "Rights Agreement"), the Board of Directors shall direct by resolution or resolutions that a



certificate be properly executed, acknowledged, filed and recorded, in accordance with the provisions of the Corporation Law, providing for the total number of shares of Series A Preferred Stock authorized to be issued to be increased (to the extent that the Restated Articles of Incorporation then permits) to the largest number of whole shares (rounded up to the nearest whole number) then issuable upon exercise of such Rights.

(b) Dividends and Distributions.

(1) Subject to the rights of the holders of any shares of any series of Preferred Stock (or any similar stock) ranking prior and superior to the Series A Preferred Stock with respect to dividends, the holders of shares of Series A Preferred Stock, in preference to the holders of Common Stock and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the first day of March, June, September and December in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (i) \$1.00 or (ii) subject to the provision for adjustment hereinafter set forth, 1,000 times the aggregate per share amount of all cash dividends, and 1,000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions, other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Preferred Stock. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under clause (ii) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(2) The Corporation shall declare a dividend or distribution on the Series A Preferred Stock as provided in paragraph (1) of this Subsection (b) immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock); provided that, in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next

subsequent Quarterly Dividend Payment Date, a dividend of \$1.00 per share on the Series A Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(3) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series A Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than 60 days prior to the date fixed for the payment thereof.

(c) Voting Rights. The holders of shares of Series A Preferred Stock shall have the following voting rights:

(1) Subject to the provision for adjustment hereinafter set forth, each share of Series A Preferred Stock shall entitle the holder thereof to 1,000 votes on all matters submitted to a vote of the stockholders of the Corporation. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(2) Except as otherwise provided in this Restated Articles of Incorporation, in any Preferred Stock Designation or in any certificate of designations creating any similar stock, or by law, the holders of shares of Series A Preferred Stock and the holders of shares of Common Stock and any other capital

stock of the Corporation having general voting rights shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.

(3) Except as set forth herein, or as otherwise provided by law, holders of Series A Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common stock as set forth herein) for taking any corporate action.

(d) Certain Restrictions.

(1) Whenever quarterly dividends or other dividends or distributions payable on the Series A Preferred Stock as provided in Subsection (b) are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series A Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(A) declare or pay dividends, or make any other distributions, on any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock;

(B) declare or pay dividends, or make any other distributions, on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except dividends paid ratably on the Series A Preferred stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(C) redeem or purchase or otherwise acquire for consideration shares of any stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of any stock of the Corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series A Preferred Stock; or

(D) redeem or purchase or otherwise acquire for consideration any shares of Series A Preferred Stock, or any shares of stock ranking on a parity with the Series A Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other

relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(2) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (1) of this Subsection (d), purchase or otherwise acquire such shares at such time and in such manner.

(e) Reacquired Shares. Any shares of Series A Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired promptly after the acquisition thereof. All such shares shall upon their retirement become authorized but unissued shares of Series A Preferred Stock and may be reissued as part of a new series of Series A Preferred Stock subject to the conditions and restrictions on issuance set forth herein or in any Certificate of Designations creating a series of Preferred Stock or any similar stock or as otherwise required by law.

(f) Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made (1) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock unless, prior thereto, the holders of shares of Series A Preferred Stock shall have received an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, plus an amount equal to the greater of \$1.00 per share or an aggregate amount per share equal to 1,000 times the aggregate amount to be distributed per share to holders of shares of Common Stock, or (2) to the holders of shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except distributions made ratably on the Series A Preferred Stock and all such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up; provided, however, that in the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(g) Consolidation, Merger, etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case, each share of Series A Preferred Stock shall at the same time be similarly exchanged or changed into an amount per share, subject to the provision for adjustment hereinafter set forth,

equal to 1,000 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series A Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(h) No Redemption. The shares of Series A Preferred Stock shall not be redeemable.

(i) Rank. The Series A Preferred Stock shall rank, with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, junior to all other series of the Corporation's Preferred Stock.

(j) Amendment. The Restated Articles of Incorporation of the Corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series A Preferred Stock so as to affect them adversely without the affirmative vote of the holders of at least two-thirds of the outstanding shares of Series A Preferred Stock, voting together as a single class.

## ARTICLE VI

### Directors

Section 6.1. Number and Classification. The number of directors comprising the Board of Directors shall be such number as may be from time to time fixed in accordance with the By-Laws of the Corporation. The directors shall be classified in respect to the time for which they shall severally hold office, by dividing them into three classes. The number of directors in each class shall be as nearly equal as possible. At each annual election, any vacancy in any class may be filled and the successors to the directors of the class whose terms shall expire in that year shall be elected to hold office for the term of three years, and the term of office of one class of directors shall expire in each year. In the event the number of directors is increased, election may be made to a class of directors with terms expiring in three years or less in order to maintain proportionate equality between the classes.

Section 6.2. Qualifications. Directors need not be shareholders of the Corporation or residents of this or any other state in the United States.

Section 6.3. Vacancies. Vacancies occurring in the Board of Directors shall be filled in the manner provided in the By-Laws or, if the By-Laws do not provide for the filling of

vacancies, in the manner provided by the Corporation Law. The By-Laws may also provide that in certain circumstances specified therein, vacancies occurring in the Board of Directors may be filled by vote of the shareholders at a special meeting called for that purpose or at the next annual meeting of shareholders.

Section 6.4. Liability of Directors. A Director's responsibility to the Corporation shall be limited to discharging his or her duties as a Director, including his or her duties as a member of any committee of the Board of Directors upon which he or she may serve, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director reasonably believes to be in the best interests of the Corporation, all based on the facts then known to the Director.

In discharging his or her duties, a Director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (a) One (1) or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented;
- (b) Legal counsel, public accountants or other persons as to matters the Director reasonably believes are within such person's professional or expert competence; or
- (c) A committee of the Board of which the Director is not a member if the Director reasonably believes the Committee merits confidence;

but a Director is not acting in good faith if the Director has knowledge concerning the matter in question that makes reliance otherwise permitted by this Section 6.4 unwarranted.

A Director shall not be liable for any action taken as a Director, or any failure to take any action, unless (a) the Director has breached or failed to perform the duties of the Director's office in compliance with this Section 6.4, and (b) the breach or failure to perform constitutes willful misconduct or recklessness.

Section 6.5. Factors to be Considered by Board. In determining whether to take or refrain from taking any action with respect to any matter, including making or declining to make any recommendation to shareholders of the Corporation, the Board of Directors may, in its discretion, consider both the short term and long term best interests of the Corporation (including the possibility that these interests may be best served by the continued independence of the Corporation), taking into account, and weighing as the Directors deem appropriate, the social and economic effects thereof on the Corporation's present and future employees, suppliers and customers of the Corporation and its subsidiaries, the communities in which offices or other facilities of the Corporation are located and any other factors the Directors consider pertinent.

Section 6.6. Removal of Directors. Notwithstanding any other provisions of the Corporation Law, these Restated Articles of Incorporation or the By-Laws of the Corporation (and notwithstanding the fact that some lesser percentage may be specified by law, these Restated Articles of Incorporation or the By-Laws of the Corporation), one or more directors of the Corporation may be removed at any time, with or without cause, only by the affirmative vote of the holders of a majority or more of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (considered for this purpose as one class) cast at a meeting of the shareholders called for that purpose. Notwithstanding the foregoing, and except as otherwise required by law, whenever the holders of any one or more series of Preferred Stock shall have the right, voting separately as a class, to elect one or more directors of the Corporation, the provisions of this Section 6.6 shall not apply with respect to the director or directors elected by such holders of Preferred Stock.

Section 6.7. Election and Removal of Directors by Holders of Preferred Stock. The holders of one (1) or more series of Preferred Stock may be entitled to elect all or a specified number of Directors, but only to the extent and subject to limitations as may be set forth in the provisions of these Restated Articles of Incorporation adopted by the Board of Directors pursuant to Section 5.5 hereof describing the terms of the series of Preferred Stock. Any such Directors elected by a series of Preferred Stock shall only be removed in accordance with the terms of that series of Preferred Stock as adopted by the Board of Directors pursuant to Section 5.5 hereof.

## ARTICLE VII

### Provisions for Regulation of Business and Conduct of Affairs of Corporation

Section 7.1. Meetings of Shareholders. Meetings of the shareholders of the Corporation shall be held at such time and at such place, either within or without the State of Indiana, as may be stated in or fixed in accordance with the By-Laws of the Corporation and specified in the respective notices or waivers of notice of any such meetings.

Section 7.2. Meetings of Directors. Meetings of the Board of Directors of the Corporation shall be held at such place, either within or without the State of Indiana, as may be authorized by the By-Laws and specified in the respective notices or waivers of notice of any such meetings or otherwise specified by the Board of Directors. Unless the By-Laws provide otherwise (a) regular meetings of the Board of Directors may be held without notice of the date, time, place or purpose of the meeting and (b) the notice for a special meeting need not describe the purpose or purposes of the special meeting.

Section 7.3. Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or shareholders, or of any committee of such Board, may be taken without a meeting, if the action is taken by all members of the Board or all shareholders entitled to vote on the action, or by all members of such committee, as the case may be. The action must be evidenced by one (1) or more written consents describing the action taken, signed by each Director, or all the shareholders entitled to vote on the action, or by each member of such

committee, as the case may be, and, in the case of action by the Board of Directors or a committee thereof, included in the minutes or filed with the corporate records reflecting the action taken or, in the case of action by the shareholders, delivered to the Corporation for inclusion in the minutes or filing with the corporate records. Action taken under this Section 7.3 is effective when the last Director, shareholder or committee member, as the case may be, signs the consent, unless the consent specifies a different prior or subsequent effective date, in which case the action is effective on or as of the specified date. Such consent shall have the same effect as a unanimous vote of all members of the Board, or all shareholders, or all members of the committee, as the case may be, and may be described as such in any document.

Section 7.4. By-Laws. All provisions for the regulation of the business and management of the affairs of the Corporation not stated in these Restated Articles of Incorporation shall be stated in the By-Laws. The By-Laws of the Corporation may be altered, amended or repealed, and new By-laws may be adopted, by the majority vote of the stockholders or by the Board of Directors, except as otherwise expressly provided in the By-Laws. The Board of Directors may adopt Emergency By-Laws of the Corporation and shall have the exclusive power (except as may otherwise be provided therein) to make, alter, amend or repeal, or to waive provisions of, the Emergency By-Laws by the affirmative vote of a majority of the entire number of Directors at the time.

Section 7.5. Nonliability of Shareholders. Shareholders of the Corporation are not personally liable for the acts or debts of the Corporation, nor is private property of shareholders subject to the payment of corporate debts.

Section 7.6. Indemnification of Officers, Directors, Employees and Agents. To the fullest extent permitted by the laws of the State of Indiana, the Corporation shall indemnify any person who is or was a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, including appeals.

#### ARTICLE VIII Miscellaneous

Section 8.1. Amendment or Repeal. Except as otherwise expressly provided for in these Restated Articles of Incorporation, the Corporation shall be deemed, for all purposes, to have reserved the right to amend, alter, change or repeal any provision contained in these Restated Articles of Incorporation to the extent and in the manner now or hereafter permitted or prescribed by statute, and all rights herein conferred upon shareholders are granted subject to such reservation.



Section 8.2. Captions. The captions of the Articles and Sections of these Restated Articles of Incorporation have been inserted for convenience of reference only and do not in any way define, limit, construe or describe the scope or intent of any Article or Section hereof.

Section 8.3 Control Shares. Pursuant to the provisions of Ind. Code § 23-1-42-6, the Corporation hereby provides that Chapter 42 of the Corporation Law (Ind. Code § 23-1-42-1 through 23-1-42-11) shall not apply to control share acquisitions of shares of the Corporation.

Section 8.4 Business Combinations. Pursuant to the provisions of Ind. Code § 23-1-43-22, the Corporation elected in its original Articles of Incorporation and herein hereby affirms its election not to be governed by the provisions of Chapter 43 of the Corporation Law (Ind. Code § 23-1-43-1 through 23-1-43-24).

(Amended and Restated as of June 3, 2004)

**BRIGHTPOINT, INC.  
BY-LAWS**

**ARTICLE I  
Offices**

1. The location of the registered office of the Corporation in the State of Indiana is 251 E. Ohio Street, Suite 500, Indianapolis, Indiana 46204.
2. The Corporation shall in addition to its registered office in the State of Indiana establish and maintain an office or offices at such place or places as the Board of Directors may from time to time find necessary or desirable.

**ARTICLE II  
Corporate Seal**

The corporate seal of the Corporation shall have inscribed thereon the name of the Corporation and may be in such form as the Board of Directors may determine. Such seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

**ARTICLE III  
Meetings Of Shareholders**

1. All meetings of the shareholders shall be held at the registered office of the Corporation in the State of Delaware or at such other place, within or without the State of Indiana, as shall be determined from time to time by the Board of Directors.
2. The annual meeting of shareholders shall be held on such day and at such time as may be determined from time to time by resolution of the Board of Directors. The election of Directors and any other proper business, as provided by Section 7 of Article III of these By-laws, may be transacted at the annual meeting.
3. The holders of a majority of the stock issued and outstanding and entitled to vote there at, present in person or represented by proxy, shall constitute a quorum at all meetings of the shareholders for the transaction of business, except as otherwise expressly provided by statute, by the Restated Articles of Incorporation or by these By-laws. If, however, such majority shall not be present or represented at any meeting of the shareholders, the shareholders entitled to vote there at, present in person or by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting (except as otherwise provided by statute). At such adjourned meeting at which the requisite amount of voting stock shall be represented any business may be transacted which might have been transacted at the meeting as originally notified.
4. At all meetings of the shareholders each shareholder having the right to vote shall be entitled to vote in person, or by proxy appointed by an instrument in writing subscribed by such shareholder and bearing a date not more than three years prior to said meeting, unless such instrument provides for a longer period.
5. At each meeting of the shareholders each shareholder shall have one vote for each share of capital stock having voting power, registered in his name on the books of the Corporation at the record date fixed in accordance

with these By-laws, or otherwise determined, with respect to such meeting. Except as otherwise expressly provided by statute, by the Restated Articles of Incorporation or by these By-laws, all matters coming before any meeting of the shareholders shall be decided by the vote of a majority of the number of shares of stock present in person or represented by proxy at such meeting and entitled to vote there at, a quorum being present.

6. Except as otherwise provided by law, written or printed notice of each meeting of the shareholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each shareholder entitled to vote at such meeting or, in the event that the shareholders are to vote upon any proposal to merge or consolidate the corporation or to sell, lease or exchange all or substantially all of its property and assets, not less than 20 nor more than 60 days before the date of such meeting. Such notice shall be delivered either personally or by mail or at the direction of the Chairman of the Board, the President or the Secretary. Each notice of meeting shall state the place, date and hour of the meeting.

7. At any meeting, only such business shall be conducted as shall have been brought before the meeting (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors, or (iii) by any shareholder who complies with the procedures set forth in this Section 7.

The only business which shall be conducted at any meeting of the shareholders shall (i) have been specified in the written notice of the meeting (or any supplement thereto) given as provided in the preceding Section, (ii) be brought before the meeting at the direction of the Board of Directors or the chairman of the meeting or (iii) have specified in a written notice (a "Shareholder Meeting Notice") given to the corporation, in accordance with all of the following requirements, by or on behalf of any shareholder who shall have been a shareholder of record on the record date for such meeting and who shall continue to be entitled to vote there at. Each Shareholder Meeting Notice must be delivered personally to, or be mailed to and received by, the Secretary of the Corporation, at the principal executive offices of the Corporation, not less than 50 days nor more than 75 days prior to the meeting; provided, however, that in the event that less than 65 days' notice or prior public disclosure of the date of the meeting is given or made to shareholders, notice by the shareholder to be timely must be received not later than the close of business on the tenth day following the day on which such notice of the date of the meeting was mailed or such public nondisclosure was made. Each Shareholder Meeting Notice to the Secretary shall set forth as to each matter the Shareholder proposes to bring before the meeting: (i) a description of each item of business proposed to be brought before the meeting and the reasons for conducting such business at the meeting; (ii) the name and address, as they appear on the Corporation's books, of the shareholder proposing to bring such item of business before the meeting; (iii) the class and number of shares of stock held of record, owned beneficially and represented by proxy by such shareholder as of the record date for the meeting (if such date then shall have been made publicly available) and as of the date of such Shareholder Meeting Notice; and (iv) all other information which would be required to be included in a proxy statement filed with the Securities and Exchange Commission (the "Commission") if, with respect to any such item of business, such shareholder were a participant in a solicitation subject to Section 14 of the Securities Exchange Act of 1934.

Notwithstanding anything in these By-laws to the contrary, no business shall be conducted at any meeting of the shareholders except in accordance with the procedures set forth in these By-laws. The Chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the procedures prescribed by these By-laws, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

When a meeting is adjourned to another time or place, notice of the adjourned meeting need not be given if the time and place thereof are announced at the meeting at which the adjournment is taken, unless the adjournment is for more than 30 days, or unless after the adjournment a new record date is fixed for the adjourned meeting, in which case notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting. At the adjourned meeting, any business may be transacted that might have been transacted at the original meeting.

8. Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors and shall be called by the Board of Directors if the Secretary receives written, dated and signed demands for a special meeting, describing in reasonable detail the purpose or purposes for which it is to be held, from the holders of shares representing a majority of the Corporation's

outstanding common stock. If the Secretary receives one (1) or more proper written demands for a special meeting of shareholders, the Board of Directors may set a record date for determining shareholders entitled to make such demand.

9. The order of business at each meeting of shareholders shall be determined by the presiding officer.

#### ARTICLE IV Directors

1. The business and affairs of the Corporation shall be managed under the direction of a Board of Directors, which may exercise all such powers and authority for and on behalf of the Corporation as shall be permitted by law, the Restated Articles of Incorporation or these By-laws.

2. The Board of Directors may hold their meetings within or outside of the State of Indiana, at such place or places as it may from time to time determine.

3. The number of directors comprising the Board of Directors shall be such number as may be from time to time fixed by resolution of the Board of Directors. The directors shall be classified in respect to the time for which they shall severally hold office, by dividing them into three classes. The number of directors in each class shall be as nearly equal as possible. At each annual election, any vacancy in any class may be filled and the successors to the directors of the class whose terms shall expire in that year shall be elected to hold office for the term of three years, and the term of office of one class of directors shall expire in each year. In the event the number of directors is increased, election may be made to a class of directors with terms expiring in three years or less in order to maintain proportionate equality between the classes.

4. Subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, nominations for the election of directors may be made by the Board of Directors or a committee appointed by the Board of Directors or any shareholder entitled to vote in the election of directors generally. However, any shareholder entitled to vote in the election of directors generally may nominate one or more persons for election as directors at a meeting only if written notice of such shareholder's intent to make such nomination or nominations has been delivered personally to, or been mailed to and received by the Secretary of the Corporation at, the principal executive offices of the Corporation, not less than 50 days nor more than 75 days prior to the meeting; provided, however, that, in the event that less than 65 days' notice or prior public disclosure of the date of the meeting is given or made to shareholders, notice by the shareholder to be timely must be so received not later than the close of business on the tenth day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made. Each such notice shall set forth: (i) the name and address of the shareholder, as they appear on the Corporation's books, who intends to make the nomination and of the person or persons to be nominated; (ii) the class and number of shares of stock held of record, owned beneficially and represented by proxy by such shareholder as of the record date for the meeting (if such date shall then have been made publicly available) and of the date of such notice; (iii) a representation that the shareholder intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (iv) a description of all arrangements or understandings between such shareholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by such shareholder; (v) such other information regarding each nominee proposed by such shareholder as would be required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission, had each nominee been nominated, or intended to be nominated by the Board of Directors; and (vi) the consent of each nominee to serve as a director of the corporation if so elected.

No person shall be eligible to serve as a director of the corporation unless nominated in accordance with the procedures set forth in this By-laws. The Chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by these By-laws, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

5. The directors shall be elected by the holders of shares of stock of the Corporation entitled to vote on the election of directors, and directors shall be elected by a plurality vote. The directors shall be classified into three classes, designated as Class I, Class II and Class III as set forth in Section 3 of this Article IV. The Class I directors shall serve until the annual meeting of shareholders held in 2005, the Class II directors until the annual meeting of shareholders held in 2006, and the Class III directors until the annual meeting of shareholders held in 2007 and, in each case, until their successor(s) are duly elected and qualified. At each annual meeting of shareholders commencing with the annual meeting to be held during the calendar year 2006 each of the successors to the Directors of the Class whose term shall have expired that year shall be elected for a three-year term. If the number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected to fill a vacancy resulting from an increase in such class shall hold office for a term that shall coincide with the remaining term of that class, but in no case will a decrease in the number of directors shorten the term of any incumbent director. A director shall hold office until the annual meeting for the year in which his term expires and until the successor shall be elected and shall qualify, subject, however to prior death, resignation, retirement, disqualification or removal from office.

6. Any vacancy occurring in the Board of Directors, including any vacancy created by reason of an increase in the number of directors, shall be filled for the unexpired term by the concurring vote of a majority of the directors then in office, whether or not a quorum, and any director so chosen shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified.

7. Any director may resign at any time by giving written notice of his resignation to the Board of Directors. Any such resignation shall take effect upon receipt thereof by the Board, or at such later date as may be specified therein. Any such notice to the Board shall be addressed to it in care of the Secretary.

8. Any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares entitled to vote at an election of directors.

#### **ARTICLE V Committees Of Directors**

1. By resolutions adopted by a majority of the whole Board of Directors, the Board may designate an Executive Committee and one or more other committees, each such committee to consist of one or more directors of the Corporation. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation (except as otherwise expressly limited by statute), including the power and authority to declare dividends and to authorize the issuance of stock, and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall have such of the powers and authority of the Board as may be provided from time to time in resolutions adopted by a majority of the whole Board.

2. The requirements with respect to the manner in which the Executive Committee and each such other committee shall hold meetings and take actions shall be set forth in the resolutions of the Board of Directors designating the Executive Committee or such other committee.

#### **ARTICLE VI Compensation Of Directors**

The directors shall receive such compensation for their services as may be authorized by resolution of the Board of Directors, which compensation may include an annual fee and a fixed sum for expense of attendance at regular or special meetings of the Board or any committee thereof. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

**ARTICLE VII**  
**Meetings Of Directors; Action Without A Meeting**

1. Regular meetings of the Board of Directors may be held without notice at such time and place, either within or without the State of Indiana, as may be determined from time to time by resolution of the Board.

2. Special meetings of the Board of Directors shall be held whenever called by the President of the Corporation or the Board of Directors on at least 24 hours' notice to each director. Except as may be otherwise specifically provided by statute, by the Restated Articles of Incorporation or by these By-laws, the purpose or purposes of any such special meeting need not be stated in such notice, although the time and place of the meeting shall be stated.

3. At all meetings of the Board of Directors, the presence in person of a majority of the members of the Board of Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and, except as otherwise provided by statute, by the Restated Articles of Incorporation or by these By-laws, if a quorum shall be present the act of a majority of the directors present shall be the act of the Board.

4. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all the members of the Board or such committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of proceedings of the Board of committee. Any director may participate in a meeting of the Board, or any committee designated by the Board, by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this sentence shall constitute presence in person at such meeting.

**ARTICLE VIII**  
**Officers**

1. The officers of the Corporation shall be chosen by the Board of Directors and shall be a Chairman of the Board, a Chief Executive Officer, a Chief Operating Officer, a President, one or more Executive Vice Presidents, one or more Vice Presidents, a Secretary and a Treasurer. The Board may also choose one or more Assistant Secretaries and Assistant Treasurers, and such other officers as it shall deem necessary. Any number of offices may be held by the same person.

2. The salaries of all officers of the Corporation shall be fixed by the Board of Directors, or in such manner as the Board may prescribe.

3. The officers of the Corporation shall hold office until their successors are elected and qualified, or until their earlier resignation or removal. Any officer may be at any time removed from office by the Board of Directors, with or without cause. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

4. Any officer may resign at any time by giving written notice of his resignation to the Board of Directors. Any such resignation shall take effect upon receipt thereof by the Board or at such later date as may be specified therein. Any such notice to the Board shall be addressed to it in care of the Secretary.

**ARTICLE IX**  
**Chairman Of The Board**

The Chairman of the Board shall have general supervision and management of the business of the Corporation and shall see that all orders and resolutions of the Board are carried into effect. He shall preside at meetings of the shareholders and of the Board of Directors.

**ARTICLE X**  
**Chief Executive Officer; Chief Operating Officer**

1. The Chief Executive Officer shall have general supervision and direction of the business and affairs of the Corporation, subject, however, to the direction and control of the Board. The Chief Executive Officer may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments. He shall perform all duties incident to the office of the Chief Executive Officer and shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board may from time to time determine.

2. The Chief Operating Officer shall have general supervision and direction of the business and affairs of the Corporation and shall have general and active supervision and direction over the business operations and affairs of the Corporation and over its several officers, agents and employees, subject, however, to the direction and control of the Board. The Chief Operating Officer may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments. He shall perform all duties incident to the office of the Chief Operating Officer and shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board may from time to time determine.

**ARTICLE XI**  
**President**

Subject to the supervision and direction of the Board of Directors, he shall be responsible for managing the affairs of the Corporation. He shall have supervision and direction of all of the other officers of the Corporation and shall have the powers and duties usually and customarily associated with the office of the President. In the absence of the Chairman, he shall preside at meetings of the shareholders.

**ARTICLE XII**  
**Executive Vice Presidents**

Each Executive Vice President shall have such powers and perform such duties as may be delegated to him by the Board of Directors, the Chairman of the Board, the President or the senior officer to whom he reports.

**ARTICLE XIII**  
**Vice Presidents**

The Vice Presidents shall have such powers and duties as may be delegated to them by the President.

**ARTICLE XIV**  
**Secretary And Assistant Secretary**

1. The Secretary shall attend all meetings of the Board of Directors and of the shareholders, and shall record the minutes of all proceedings in a book to be kept for that purpose. He shall perform like duties for the committees of the Board when required.

2. The Secretary shall give, or cause to be given, notice of meetings of the shareholders, of the Board of Directors and of the committees of the Board. He shall keep in safe custody the seal of the Corporation, and when authorized by the President, an Executive Vice President or a Vice President, shall affix the same to any instrument requiring it, and when so affixed it shall be attested by his signature or by the signature of an Assistant Secretary. He shall have such other powers and duties as may be delegated to him by the President.

3. The Assistant Secretary shall, in case of the absence of the Secretary, perform the duties and exercise the powers of the Secretary, and shall have such other powers and duties as may be delegated to them by the President.

### **ARTICLE XV Treasurer And Assistant Treasurer**

1. The Treasurer shall have the custody of the corporate funds and securities, and shall deposit or cause to be deposited under his direction all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors or pursuant to authority granted by it. He shall render to the President and the Board whenever they may require it an account of all his transactions as Treasurer and of the financial condition of the Corporation. He shall have such other powers and duties as may be delegated to him by the President.

2. The Assistant Treasurer shall, in case of the absence of the Treasurer, perform the duties and exercise the powers of the Treasurer, and shall have such other powers and duties as may be delegated to them by the President.

### **ARTICLE XVI Certificates Of Stock**

The certificates of stock of the Corporation shall be numbered and shall be entered in the books of the Corporation as they are issued. They shall exhibit the holder's name and number of shares and shall be signed by the President or an Executive Vice President or Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary.

### **ARTICLE XVII Checks**

All checks, drafts and other orders for the payment of money and all promissory notes and other evidences of indebtedness of the Corporation shall be signed by such officer or officers or such other person as may be designated by the Board of Directors or pursuant to authority granted by it.

### **ARTICLE XVIII Fiscal Year**

The fiscal year of the Corporation shall be as determined from time to time by resolution duly adopted by the Board of Directors.

### **ARTICLE XIX Notices And Waivers**

1. Whenever by statute, by the Restated Articles of Incorporation or by these By-laws it is provided that notice shall be given to any director or shareholder, such provision shall not be construed to require personal notice, but such notice may be given in writing, by mail, by depositing the same in the United States mail, postage prepaid, directed to such shareholder or director at his address as it appears on the records of the Corporation, and such notice shall be deemed to be given at the time when the same shall be thus deposited.

Notice of regular or special meetings of the Board of Directors may also be given to any director by telephone or by telex, telegraph or cable, and in the latter event the notice shall be deemed to be given at the time such notice,



addressed to such director at the address hereinabove provided, is transmitted by telex (with confirmed answerback), or delivered to and accepted by an authorized telegraph or cable office.

2. Whenever by statute, by the Restated Articles of Incorporation or by these By-laws a notice is required to be given, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of any shareholder or director at any meeting thereof shall constitute a waiver of notice of such meeting by such shareholder or director, as the case may be, except as otherwise provided by statute.

## ARTICLE XX Indemnification

1. To the fullest extent permitted by the laws of the State of Indiana, the Corporation shall indemnify any person who is or was a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, including appeals.

2. To the fullest extent permitted by the laws of the State of Indiana, the Corporation shall pay expenses incurred in defending a civil or criminal action, suit or proceeding described this Article XX in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation.

3. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article XX.

4. The provisions of this Article XX shall be applicable to all actions, claims, suits or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after its adoption. The provisions of this Article XX shall be deemed to be a contract between the Corporation and each director, officer, employee or agent who serves in such capacity at any time while this Article XX and the relevant provisions of the laws of the State of Indiana and other applicable law, if any, are in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts or any action, suit or proceeding then or theretofore existing, or any action, suit or proceeding thereafter brought or threatened based in whole or in part on any such state of facts. If any provision of this Article XX shall be found to be invalid or limited in application by reason of any law or regulation, it shall not affect the validity of the remaining provisions hereof. The rights of indemnification provided in this Article XX shall neither be exclusive of, nor be deemed in limitation of, any rights to which any such officer, director, employee or agent may otherwise be entitled or permitted by contract, the Restated Articles of Incorporation, vote of shareholders or directors or otherwise, or as a matter of law, both as to actions in his official capacity and actions in any other capacity while holding such office, it being the policy of the Corporation that indemnification of the specified individuals shall be made to the fullest extent permitted by law.

5. For purposes of this Article XX, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries.

## **ARTICLE XXI**

### **Alteration Of By-Laws**

The By-laws of the Corporation may be altered, amended or repealed, and new By-laws may be adopted, by the majority vote of the shareholders or by the Board of Directors; provided, however, that the provisions of Section 5 of Article IV of the By-Laws may be altered, amended or repealed only by the affirmative vote of the holders of 66 2/3% of the voting power of the Corporation's stock outstanding and entitled to vote thereon.

- 10 -

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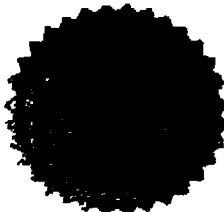
PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"BRIGHTPOINT, INC.", A DELAWARE CORPORATION,  
WITH AND INTO "BRIGHTPOINT INDIANA CORP." UNDER THE NAME OF "BRIGHTPOINT INDIANA CORP.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF INDIANA, AS RECEIVED AND FILED IN THIS OFFICE THE THIRD DAY OF JUNE, A.D. 2004, AT 2:20 O'CLOCK P.M.

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



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*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 3157439

DATE: 06-08-04

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State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 02:20 PM 06/03/2004  
FILED 02:20 PM 06/03/2004  
SER 040413783 - 2374964 FILE

**CERTIFICATE OF MERGER**

**OF**

**BRIGHTPOINT, INC.**

**INTO**

**BRIGHTPOINT INDIANA CORP.**

**(UNDER SECTION 252 OF THE GENERAL CORPORATION LAW OF THE STATE OF DELAWARE)**

(1) The name and state of incorporation of each of the constituent corporations are:

(a) Brightpoint, Inc., a Delaware corporation; and

(b) Brightpoint Indiana Corp., an Indiana corporation.

(2) A Plan and Agreement of Merger has been approved, adopted, certified, executed and acknowledged by Brightpoint Indiana Corp. and by Brightpoint, Inc. in accordance with the provisions of subsection (c) of Section 252 of the General Corporation Law of the State of Delaware.

(3) The name of Brightpoint Indiana Corp., the surviving corporation, will be changed to Brightpoint, Inc. as a result of the merger.

(4) The restated articles of incorporation of the surviving corporation in the form attached to the Plan and Agreement of Merger shall be the articles of incorporation of the surviving corporation.

(5) The surviving corporation is a corporation of the State of Indiana.

(6) The executed Plan and Agreement of Merger is on file at the principal place of business of Brightpoint Indiana Corp. at 501 Airtach Parkway, Plainfield, Indiana 46168.

(7) A copy of the Plan and Agreement of Merger will be furnished by Brightpoint Indiana Corp. on request and without cost, to any stockholder of Brightpoint, Inc. or Brightpoint Indiana Corp.

(8) Brightpoint Indiana Corp. hereby agrees that it may be served with process in Delaware in any proceeding for enforcement of any obligation of Brightpoint, Inc., as well as for enforcement of any obligation of Brightpoint Indiana Corp. arising from the merger, including any suit or other proceeding to enforce the rights of any stockholders as determined in appraisal

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proceedings pursuant to 8 Del. C. § 262, and Brightpoint Indiana Corp. hereby irrevocably appoints the Secretary of State of the State of Delaware as its agent to accept service of process in any such suit or other proceedings and a copy of such process is requested to be mailed by the Delaware Secretary of State to Brightpoint Indiana Corp. at the following address:

Brightpoint, Inc.  
501 Airtach Parkway  
Plainfield, Indiana 46168  
Attn: Corporate Secretary

*[Signature Page To Follow]*

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IN WITNESS WHEREOF, the surviving corporation, has caused this certificate to be signed by Steven E. Fivel, its President, and attested by its Secretary, on the 3rd day of June, 2004.

BRIGHTPOINT INDIANA CORP.

By:   
Steven E. Fivel, President

ATTEST:  
By:   
Steven E. Fivel, Secretary