

6/25/93

CERTIFICATE OF INCORPORATION  
OF

PRODUCTION SYSTEMS ACQUISITION CORPORATION

The undersigned, a natural person, for the purpose of organizing a corporation for conducting the business and promoting the purposes hereinafter stated, under the provisions and subject to the requirements of the General Corporation Law of the State of Delaware, hereby certifies that:

FIRST: The name of the Corporation is Production Systems Acquisition Corporation.

SECOND: The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801. The name of the Corporation's registered agent at such address is The Corporation Trust Company.

THIRD: The purpose of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "GCL").

FOURTH: The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 51,000,000 of which 50,000,000 shares shall be Common Stock of the par value of \$0.001 per share and 1,000,000 shares shall be Preferred Stock of the par value of \$0.001 per share.

A. Preferred Stock. The Board of Directors is expressly authorized to provide for the issue of all or any shares of the Preferred Stock, in one or more series, and to fix for each such series such voting powers, full or limited, and such designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issue of such series (a "Preferred Stock Designation") and as may be permitted by the GCL. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the then outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), voting together as a single class, without a separate vote of the holders of the Preferred Stock, or any series thereof, unless a vote of any such holders is required pursuant to any Preferred Stock Designation.

B. Common Stock. Except as otherwise required by law or as otherwise provided in any Preferred Stock Designation, the holders of the Common Stock shall exclusively possess all voting power and each share of Common Stock shall have one vote.

FIFTH: The name and address of the sole incorporator of the Corporation are as follows:

<u>Name</u>	<u>Address</u>
Samuel N. Seidman	1345 Avenue of the Americas 29th Floor New York, NY 10105

SIXTH: The following provisions (a) through (e) shall apply during the period commencing upon the filing of this Certificate of Incorporation and terminating upon the consummation of any "Business Combination," and may not be amended prior to the consummation of any Business Combination. A "Business Combination" shall mean the acquisition by the Corporation, whether by merger, exchange of capital stock, asset or stock acquisition or other similar type of transaction, of any operating business ("Target Business") in the production systems, equipment, components and materials fields.

A. Prior to the consummation of any Business Combination, the Corporation shall submit such Business Combination to its stockholders for approval regardless of whether the Business Combination is of a type which normally would require such stockholder approval under the GCL. In the event that the holders of a majority of the outstanding Voting Stock vote for the approval of the Business Combination, the Corporation shall be authorized to consummate the Business Combination. Notwithstanding the foregoing, in the event that the holders of 20% or more of the Voting Stock (excluding, for this purpose, those persons ("Insiders") who were stockholders prior to the Corporation's initial public offering of its securities ("IPO")) vote against the Business Combination, the Corporation shall not be authorized to consummate such Business Combination.

B. In the event that a Business Combination is approved in accordance with the above paragraph A and is consummated by the Corporation, any stockholder of the Corporation other than an Insider (a "Public Stockholder") who voted against the Business Combination may demand that the Corporation redeem his shares. If so demanded, the Corporation shall redeem such shares at a per share redemption price equal to the quotient determined by dividing (i) the amount in the Trust Fund, as defined below, as of the record date for determination of stockholders entitled to vote on the Business Combination, by (ii) the number of shares held by the Public Stockholders. "Trust Fund" shall mean the trust account established by the

Corporation at the consummation of its IPO and into which certain amounts of the net proceeds of the IPO are deposited.

C. In the event that the Corporation does not consummate a Business Combination by the later of (i) 18 months after the effective date ("Effective Date") of the Corporation's registration statement relating to its IPO or (ii) 24 months after the Effective Date in the event that an agreement for a Business Combination was submitted to the stockholders for approval but was not consummated within such 18 month period, the officers of the Corporation shall take all such action necessary to liquidate and dissolve the Corporation. In the event that the Corporation is so dissolved and liquidated, only the Public Stockholders shall be entitled to receive liquidating distributions and the Corporation shall pay no liquidating distributions to any Insider.

D. A Public Stockholder shall be entitled to receive distributions from the Trust Fund only in the event of a liquidation of the Corporation or in the event he demands redemption of his shares in accordance with paragraph B, above. In no other circumstances shall any Public Stockholder have any other right or interest of any kind in or to the Trust Fund.

E. Directors shall be divided into two classes, which two classes need not consist of equal numbers of directors, but instead one class shall consist of approximately one-third of the total number of directors constituting the entire Board of Directors and the other class shall consist of approximately two-thirds of the total number of directors constituting the entire Board of Directors. At each annual meeting of stockholders, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the second succeeding annual meeting of stockholders after their election. Except as the GCL may otherwise require, in the interim between annual meetings of stockholders or of special meetings of stockholders called for the election of directors and/or for the removal of one or more directors and for the filing of any vacancy in that connection, newly created directorships and any vacancies in the Board of Directors, including unfilled vacancies resulting from the removal of directors for cause, may be filled by the vote of a majority of the remaining Directors then in office, although less than a quorum, or by the sole remaining Director. All directors shall hold office until the expiration of their respective terms of office and until their successors shall have been elected and qualified.

SEVENTH: The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

A. Election of directors need not be by ballot unless the by-laws of the Corporation so provide.

B. The Board of Directors shall have the power, without the assent or vote of the stockholders, to make, alter, amend, change, add to or repeal the by-laws of the Corporation as provided in the by-laws of the Corporation.

C. The directors in their discretion may submit any contract or act for approval or ratification at any annual meeting of the stockholders or at any meeting of the stockholders called for the purpose of considering any such act or contract, and any contract or act that shall be approved or be ratified by the vote of the holders of a majority of the stock of the Corporation which is represented in person or by proxy at such meeting and entitled to vote thereat (provided that a lawful quorum of stockholders be there represented in person or by proxy) shall be as valid and binding upon the Corporation and upon all the stockholders as though it had been approved or ratified by every stockholder of the Corporation, whether or not the contract or act would otherwise be open to legal attack because of directors' interests, or for any other reason.

D. In addition to the powers and authorities hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation; subject, nevertheless, to the provisions of the statutes of Delaware, of this Certificate of Incorporation, and to any by-laws from time to time made by the stockholders; provided, however, that no by-law so shall invalidate any prior act of the directors which would have been valid if such by-law had not been made.

EIGHTH: A. A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the directors' duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the GCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the GCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the GCL, as so amended. Any repeal or modification of this paragraph A by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation with respect to events occurring prior to the time of such repeal or modification.

B. The Corporation, to the full extent permitted by Section 145 of the GCL, as amended from time to time, shall indemnify all persons whom it may indemnify pursuant thereto. Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative, or investigative action, suit or proceeding for which such officer or director may be entitled to indemnification hereunder shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such

director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized hereby.

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

IN WITNESS WHEREOF, I have signed this Certificate of Incorporation this 22nd day of June, 1993.



Samuel N. Seidman

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

PRODUCTION SYSTEMS ACQUISITION CORPORATION, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY:

FIRST: The Board of Directors of the Corporation, acting by unanimous written consent, has duly adopted the amendment to the Corporation's Certificate of Incorporation set forth below.

SECOND: Said amendment amends the first sentence of Article FOURTH of the Corporation's Certificate of Incorporation to read as follows:

"FOURTH: The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 21,000,000 of which 20,000,000 shares shall be Common Stock of the par value of \$0.001 per share and 1,000,000 shares shall be Preferred Stock of the par value of \$0.001 per share."

THIRD: Said amendment amends Article Sixth of the Corporation's Certificate of Incorporation to read in its entirety as follows:

"SIXTH: The following provisions (A) through (E) shall apply during the period commencing upon the filing of this Certificate of Incorporation and terminating upon the consummation of any "Business Combination," and may not be amended prior to the consummation of any Business Combination. A "Business Combination" shall mean the acquisition by the Corporation, whether by merger, exchange of capital stock, asset or stock acquisition or other similar type of transaction, of any business ("Target Business") in the production systems, equipment, components and materials fields.

A. Prior to the consummation of any Business Combination, the Corporation shall submit such Business Combination to its stockholders for approval regardless of whether the Business Combination is of a type which normally would require such stockholder approval under the GCL. In the event that the holders of a majority of the outstanding Voting Stock vote for the approval of the Business Combination, the Corporation shall be authorized to consummate the Business Combination.

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B. In the event that a Business Combination is approved in accordance with the above paragraph A and is consummated by the Corporation, any stockholder of the Corporation (a "Public Stockholder") other than those persons who were stockholders prior to the consummation of the Corporation's initial public offering of securities ("IPO") who voted against the Business Combination may demand that the Corporation convert his shares into cash. If so demanded, the Corporation shall convert such shares at a per share conversion price equal to the quotient determined by dividing (i) the amount in the Trust Fund (as defined below), inclusive of any interest thereon, as of the record date for determination of stockholders entitled to vote on the Business Combination, by (ii) the number of shares held by the Public Stockholders. "Trust Fund" shall mean the trust account established by the Corporation at the consummation of its IPO and into which certain amounts of the net proceeds of the IPO are deposited.

C. In the event that the Corporation does not consummate a Business Combination by the later of (i) 18 months after the consummation of the IPO or (ii) 24 months after the consummation of the IPO in the event that an agreement for a Business Combination was executed but was not consummated within such 18 month period (such later date being referred to as the "Termination Date"), the officers of the Corporation shall take all such action necessary to dissolve and liquidate the Corporation within sixty days of the Termination Date. In the event that the Corporation is so dissolved and liquidated, only the Public Stockholders shall be entitled to receive liquidating distributions and the Corporation shall pay no liquidating distributions to any person who was a stockholder prior to the consummation of the IPO.

D. A Public Stockholder shall be entitled to receive distributions from the Trust Fund only in the event of a liquidation of the Corporation or in the event he demands conversion of his shares in accordance with paragraph B, above. In no other circumstances shall a Public Stockholder have any right or interest of any kind in or to the Trust Fund.

E. Directors shall be divided into two classes. At each annual meeting of stockholders, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the second succeeding annual meeting of stockholders after their election. Except as the


GCL may otherwise require, in the interim between annual meetings of stockholders or of special meetings of stockholders called for in the election of directors and/or for the removal of one or more directors and for the filling of any vacancy in that connection, newly created directorships and any vacancies in the Board of Directors, including unfilled vacancies resulting from the removal of directors for cause, may be filled by the vote of a majority of the remaining directors then in office, although less than a quorum, or by the sole remaining director. All directors shall hold office until the expiration of their respective terms of office and until their successors shall have been elected and qualified."

FOURTH: That in lieu of a meeting and vote of stockholders entitled to vote thereon, such stockholders have given written consent to said amendment in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware, and written notice of the adoption of the amendment has been given as provided in Section 228 of the General Corporation Law of the State of Delaware to every stockholder entitled to such notice.


FIFTH: The aforesaid amendment was duly adopted in accordance with the applicable provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, Production Systems Acquisition Corporation has caused this Certificate to be signed by its President and Secretary, this 21<sup>st</sup> day of March, 1994.

PRODUCTION SYSTEMS ACQUISITION CORPORATION

By:   
Samuel N. Seidman  
President

Attest:

By:   
Jesse Levine  
Secretary



STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 09:00 AM 05/28/1996  
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**CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
PRODUCTION SYSTEMS ACQUISITION CORPORATION**

Pursuant to the General Corporation Law of the State of Delaware ("GCL"), it is hereby certified that:

1. The present name of the corporation (hereinafter called the "corporation") is Production Systems Acquisition Corporation, which is the name under which the corporation was incorporated. The date of filing the original certificate of incorporation of the corporation with the Secretary of State of the State of Delaware was June 25, 1993. The Certificate of Incorporation was amended on March 24, 1994.

2. The amended certificate of incorporation of the corporation is hereby further amended by deleting Article FIRST and in its stead substituting the following:

"FIRST: The name of the corporation is Productivity Technologies Corp."

3. The amended certificate of incorporation of the corporation is hereby further amended by adding the following:

"TENTH: The Board of Directors shall be and is divided into three classes: Class I, Class II and Class III. The number of directors in each class shall be the whole number contained in the quotient arrived at by dividing the authorized number of directors by three. If a fraction is also contained in such quotient and if such fraction is one-third (1/3), the extra director shall be a member of Class III. If the fraction is two-thirds (2/3), one of the extra directors shall be a member of Class III and the other shall be a member of Class II. Each director shall serve for a term ending on the date of the third annual meeting following the annual meeting at which such director was elected; provided however, those directors elected to be the initial directors of Class I shall serve for a term ending on the date of the annual meeting in 1997 and those directors elected to be the initial directors of Class II shall serve for a term ending on the date of the annual meeting in 1998.

In the event of any increase or decrease in the authorized number of directors, (i) each director then serving as such shall nevertheless continue as a director in the class of which he or she is a member until the expiration of his or her current term, or his or her prior death, retirement, resignation or removal, and (ii) the newly created or eliminated directorships resulting from such increase or decrease shall be apportioned by the Board of Directors to such class or classes as shall, so far as possible bring the number of directors in the respective classes into conformity with the formula in this ARTICLE TENTH, as applied to the new authorized number of directors.

Notwithstanding any of the foregoing provisions of this ARTICLE TENTH, each director shall serve until his or her successor is elected and has qualified or until his or her death, retirement, resignation or removal. No director may be removed during his or her term except for cause. Should a vacancy occur or be created, the remaining directors (even though less than a quorum) may fill the vacancy for the full term of the class in which the vacancy occurs or is created."


4. Except as otherwise amended hereby, the provisions of the amended certificate of incorporation of the corporation are in full force and effect.

5. The amendment to the amended certificate of incorporation herein certified has been duly adopted by the directors and stockholders of the corporation by the vote prescribed by Section 242 of the GCL and shall become effective on the date of the filing of this certificate.

Signed on May 21, 1996

  
Samuel N. Seidman, President

ATTEST:

  
Jesse A. Levine, Secretary

STATE OF NEW YORK            )  
  )ss:  
COUNTY OF NEW YORK        )

BE IT REMEMBERED that, on May 21, 1996, before me, a Notary Public duly authorized by law to take acknowledgment of deeds, personally came Samuel N. Seidman, President, and Jesse A. Levine, Secretary of Production Systems Acquisition Corporation, who duly signed the foregoing instrument before me and acknowledged that such signing is their act and deed, that such instrument as executed is the act and deed of said corporation, and that the facts stated herein are true.

Given under my hand on May 21, 1996.

  
Notary Public

NOAH SCOOLER  
Notary Public, State of New York  
No. 51-4513251  
Qualified in New York County  
Commission Expires March 30, 1997

Office of the Secretary of State

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT "PRODUCTIVITY TECHNOLOGIES CORP." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE NOT HAVING BEEN CANCELLED OR DISSOLVED SO FAR AS THE RECORDS OF THIS OFFICE SHOW AND IS DULY AUTHORIZED TO TRANSACT BUSINESS.

THE FOLLOWING DOCUMENTS HAVE BEEN FILED:

CERTIFICATE OF INCORPORATION, FILED THE TWENTY-FIFTH DAY OF JUNE, A.D. 1993, AT 10 O'CLOCK A.M.


CERTIFICATE OF AMENDMENT, FILED THE TWENTY-FOURTH DAY OF MARCH, A.D. 1994, AT 2:30 O'CLOCK P.M.

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "PRODUCTION SYSTEMS ACQUISITION CORPORATION" TO "PRODUCTIVITY TECHNOLOGIES CORP.", FILED THE TWENTY-EIGHTH DAY OF MAY, A.D. 1996, AT 9 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID CORPORATION.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE



  
Edward J. Freel, Secretary of State

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AUTHENTICATION: 0235618

DATE: 02-03-00

Office of the Secretary of State

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BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES  
HAVE BEEN PAID TO DATE.



*Edward J. Freel*

Edward J. Freel, Secretary of State

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AUTHENTICATION: 0235618

DATE: 02-03-00

Office of the Secretary of State

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "PRODUCTIVITY TECHNOLOGIES CORP." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE TWENTY-FIFTH DAY OF JUNE, A.D. 1993, AT 10 O'CLOCK A.M.

CERTIFICATE OF AMENDMENT, FILED THE TWENTY-FOURTH DAY OF MARCH, A.D. 1994, AT 2:30 O'CLOCK P.M.

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "PRODUCTION SYSTEMS ACQUISITION CORPORATION" TO "PRODUCTIVITY TECHNOLOGIES CORP.", FILED THE TWENTY-EIGHTH DAY OF MAY, A.D. 1996, AT 9 O'CLOCK A.M.



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A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

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AUTHENTICATION:

02-03-00

DATE: