



GNCC CAPITAL, INC.

SUPPLEMENTAL INFORMATION FILING

Public Company and Affiliate Stock Buyback Rules; Rule 10b-18

SEPTEMBER 2, 2014

BACKGROUND:-

On January 13, 2014, the Company filed on the OTC Markets the Company Directors' approval of a Stock Repurchase Program. A copy of this Filing is annexed as an Exhibit. The Company has not, as at this filing date, repurchased any of its shares of Common Stock.

This Filing simplifies the basics required for a Stock Repurchase Program.

BRIEF OVERVIEW OF STOCK REPURCHASES BY ISSUER:-

The SEC allows for limited methods that an issuer can utilize to show confidence in its own stock and assist in maintaining or increasing its stock price. One of those methods is Rule 10b-18 promulgated under the Securities Exchange Act of 1934, as amended ("Exchange Act"). Exchange Act [Rule 10b-18](#) provides issuers with a non-exclusive safe harbor from liability for market manipulation under Sections 9(a)(2) and 10(b) and Rule 10b-5 under the Exchange Act when issuers bid for or repurchase their common stock in the open market in accordance with the Rule's manner, timing, price and volume conditions. Each of the four main conditions of Rule 10b-18 must be satisfied on each day that a repurchase is made.

Sections 9 and 10 of the Exchange Act are the general anti-fraud and anti-manipulation provisions under the Act. Section 9(a) (2) of the Exchange Act makes it unlawful for any person to, directly or indirectly, create actual or apparent active trading in a security or raise or depress the price of such security for the purpose of inducing the purchase or sale of such security by others.

Section 10(b) of the Exchange Act makes it unlawful for any person to, directly or indirectly, "use or employ, in connection with the purchase or sale of any security... any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors." Rule 10b-5, promulgated under [Section 10\(b\)](#), provides that "[I]t shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, (a) To employ any device, scheme, or artifice to defraud, (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security."

Although Rule 10b-18 provides a safe harbor from the liability provisions of [Section 9\(a\)\(2\)](#), 10 and Rule 10(b)(5), like most securities rules, the rule does not provide protection from liability where it is utilized as part of a plan or scheme to evade the securities laws. In addition, an issuer must consider the interaction of other basic securities laws when attempting to rely on Rule 10b-18, such as whether it is in possession of material non-public information.

Rule 10b-18

Prior to relying on Rule 10b-18, the issuer's board of directors must approve the plan. The board minutes should include the purpose of the plan and disclose the benefits to the corporation and its shareholders in proceeding with the repurchase program.

The issuer should also consider whether it will publicly announce the program. Rule 10b-18 does not specifically require announcement, but the issuer must consider overall public disclosure requirements. Generally, if the issuer is embarking on a repurchase program, it should be announced, as the failure to announce could be deemed material non-public information preventing the program itself. Moreover, likewise if a program is announced and subsequently terminated, the termination should be announced. An announcement would be in the form of a press release and [Regulation FD](#) Form 8-K filing with such release.

The material portions of Rule 10b-18 are as follows:

Definition. A "Rule 10b-18 purchase" is generally defined as an open market purchase or any bid or limit order of an issuer's common stock by or for the issuer or any of the issuer's affiliated purchasers. The Rule is limited to common stock and does not cover other forms of securities such as warrants, options, debt or preferred stock.

To be able to rely on Rule 10b-18 in making repurchases, the following four (4) conditions must be met.

Time of Purchase. The Rule restricts issuers from making repurchases that constitute the opening transaction in the security on a trading day, or subject to exceptions, that occur during the last 30 minutes before the scheduled close of trading. However, the limitations on purchases at the close vary depending on the average daily trading volume ("ADTV") and public float. Issuers with more liquid securities (i.e., issuers with an ADTV of \$1 million or more and a public float value of \$150 million or more) would not be restricted from bidding for or purchasing their securities during any of the following periods: (1) in the 10 minutes before the scheduled close of the regular trading session in the principal market for the security; (2) the 10 minutes before the scheduled close of the regular trading session in the market where the purchase is made; and (3) after the termination of the period in which last sales prices are reported in the consolidated system.

Price of Purchase. The purchase price cannot exceed the higher of the highest independent bid or the last independent transaction price. For after-hours trading, the price must not exceed the lower of the closing price of the primary trading session or principal market and the price of any other reported subsequent transactions. The price restrictions do not apply provided that (i) the purchase otherwise complies with the Rule; (ii) the security is an actively traded security as defined in Regulation M (i.e., issuers with an ADTV of \$1 million or more and a public float value of \$150 million or more); (iii) the purchase is entered into or matched before the opening of the regular trading session; (iv) the execution price of the VWAP purchase based on regular trades meets specified conditions; (v) the purchases do not exceed 10% of the issuer's ADTV; (vi) the purchase is not for the purpose of creating an actual or apparent active trading market; (vii) the VWAP calculation is in accordance with the Rule; and (viii) the purchase is recorded using a special VWAP code (so as not to sway the independent market).

Volume of Purchase. The Rule limits the amount of securities an issuer may repurchase on the market on a single day to 25% of the four-week average daily trading volume in its shares (that is, the average daily trading volume during the four calendar weeks prior to the week in which the 10b-18 purchase is to be made). However, issuers are permitted to make one block purchase of its common stock per week outside of the volume restrictions. Issuers have to include block purchases in applying the 25% volume limitation. However, issuers would also be permitted to include block purchases in calculating the ADTV for their securities, thereby increasing the amount of stock able to be purchased within the safe harbor. The Rule defines a "block" as a quantity of stock that (1) has a purchase price of \$200,000 or more, (2) is at least 5,000 shares and has a purchase price of at least \$50,000, or (3) is at least 20 round lots of the security and totals 150% or more of the ADTV of that security. As an alternative to the 25% volume limitation, issuers are allowed purchase up to a daily aggregate amount of 500 shares regardless of the ADTV of the security. Thus, an issuer's purchases, on any single day, may not exceed the higher of 25% of the ADTV for the issuer's security or a daily aggregate amount of 500 shares.

Manner. The Rule requires an issuer to use only one broker or dealer per day to bid for or purchase its common stock. The issuer may utilize a different broker on different days, as long as they only use one per day. The issuer's direct use of an electronic trading platform or alternative trading system will be considered using a broker for purposes of applying the rule. Moreover, an issuer is not prohibited from closing unsolicited private transactions involving the repurchase of a shareholder's securities in addition to its open-market purchases.

Benefits of a stock repurchase program

There are many reasons why an issuer or an affiliate of an issuer may want to purchase its stock in the open market. In particular, (i) the repurchase of stock in the open market shows confidence and a belief in the value of the stock; (ii) like all purchases, can tend to drive up the stock price; (iii) can reduce the cost of capital for the issuer; (iii) supports liquidity for all shareholders; (iv) can be used to signal a belief that the stock is undervalued; (iv) reduce dilution after an acquisition or other large issuance; and (v) is a way to return cash to shareholders.

State law and other considerations

Prior to embarking on a repurchase program, the issuer must review its charter, bylaws and material contracts and, in particular, financing contracts. Each of these documents could contain provisions that directly or indirectly prohibit or otherwise affect an issuer's ability to repurchase its own securities.

Stock repurchase programs do not pre-empt state law. Many states have provisions related to the issuer's ability to repurchase its own stock. For example, Delaware* law provides that a company may not purchase shares of its stock when the purchase "would cause any impairment of the capital of the corporation." A repurchase is often considered analogous to a dividend under state law (by purchasing stock from shareholders, the issuer is providing cash to such shareholder). The dividend provisions of the state of incorporation should always be reviewed for compliance. Many states prohibit a dividend, including through the repurchase of securities, in the event the company is technically insolvent or fails to meet certain basic balance sheet tests such as the ratio of assets to liabilities or the amount of retained earnings.

General creditors' rights should be considered as well. For example, a creditor could attack a repurchase program when such a program leaves the issuer without available cash to meet its obligations or is seen to otherwise impair such creditor's ability to be repaid, or its security under a security agreement. It is fairly common for complex financing transactions to prohibit or otherwise limit such stock repurchases, including indirectly through limits on the use of excess cash.

*GNCC CAPITAL, INC. IS INCORPORATED IN THE STATE OF DELAWARE.

Reporting requirements related to repurchases

All issuers that are subject to the Exchange Act reporting requirements must report their stock repurchases in their Forms 10-Q and 10-K. Item 703 of [Regulation S-K](#) requires that an issuer disclose in tabular form (a) the period of purchases, by month; (b) the total number of shares repurchased during the past quarter, separated by month; (c) the average price paid per share; (d) the number of shares that were purchased as part of a publicly announced repurchase plan; and (e) the maximum number (or approximate dollar value) of shares that may yet be purchased under the plans or programs.

For publicly announced repurchase plans, the issuer is also required to disclose (by footnotes to the table) the following information: (a) the announcement date; (b) the share or dollar amount approved; (c) the expiration date (if any) of the plans or programs; (d) each plan or program that has expired during the period covered by the table; and (e) each plan or program terminated prior to expiration or the program.

Repurchase programs should also be discussed under the issuer's management discussion and analysis (MD&A) disclosures. The reasons for embarking on the program are material and relevant to the issuer's plans of operations and belief in the value of the company. In addition, the use of cash for such a program is material to the liquidity discussion.

EXHIBITS:

FILING - DATED JANUARY 13, 2014 IN RESPECT OF GNCC CAPITAL, INC. STOCK REPURCHASE PROGRAM

DATED: SEPTEMBER 2, 2014

RONALD YADIN LOWENTHAL
GNCC CAPITAL, INC.
EXECUTIVE CHAIRMAN

PETER VOSS
GNCC CAPITAL, INC.
CHIEF EXECUTIVE OFFICER



GNCC CAPITAL, INC.

**SUPPLEMENTAL FILING
STOCK REPURCHASE PROGRAM**

JANUARY 13, 2014

IMPLEMENTATION OF STOCK REPURCHASES IN OPEN MARKET

On January 13, 2014, the Directors of GNCC Capital, Inc. (“the Corporation”) unanimously resolved to implement a share repurchase of shares of the Corporation’s Common Stock.

NOTICE OF STOCK REPURCHASE PROGRAM:-

1. The principal purposes for the buyback:

A share repurchase is in the best interest of the Corporation. The capital of the Corporation is not impaired and such repurchase shall not cause any impairment of the capital of the Corporation.

All shares repurchased by the Corporation would result in a decrease of the number of freely trading shares of our common stock in free float from time to time.

The purpose of the share repurchase is for general corporate purposes.

2. The amount authorized to be repurchased:

The share repurchase shall consist of no more than 20% of the issued and outstanding shares of common stock in the Corporation as may be in issuance from time to time. No other classes of securities are affected by the share repurchase. The total amount to be utilized will not exceed the amount of \$750,000.

3. The estimated time period for when the purchases are anticipated to occur:

The Corporation may repurchase common stock of the Corporation pursuant to the authority granted in the unanimous Directors’ Resolution for a period of one year from the date hereof.

4. The manner in which the shares will be repurchased and the Corporation's plans with respect to the deposition of the shares once repurchased:

The purchase price upon repurchase not exceed any outstanding option or redemption values.

All share repurchases shall be conducted in an open market. No off-market transactions shall be used to effectuate the repurchase of shares of the common stock of the Corporation.

The Board of Directors of the Corporation may in its sole discretion elect to retire any and/or all repurchased shares from time to time. Any shares not retired may be retained as treasury shares or used for any other valid corporate purpose.

5. The source of funds to be used for the repurchases:

The share repurchase shall be funded by a third-party, non-affiliated loan to the Corporation on terms and conditions to be agreed and approved by the Directors.

6. Any existing buyback arrangements:

The Corporation has no existing or previous stock repurchase programs.

7. Any previously undisclosed material developments:

There are no significant corporate developments that have not been previously disclosed related to the Corporation other than the issuance of shares of its common stock on December 13, 2013 and in partial settlement of various outstanding convertible loan notes dated May 3, 2010. This conversion became effective prior to the decision to repurchase shares of common stock of the Corporation.

SALIENT POINTS FROM DIRECTORS' UNANIMOUS RESOLUTION:

Having given due consideration, the directors unanimously consent and agree that the repurchase is desirable and is in the best interest of the Corporation and its shareholders. Accordingly, we do hereby unanimously consent to the proposed share repurchase in accordance with the articles and bylaws of the Corporation, Delaware state law and relevant federal rules and regulations, including relevant securities laws. The board of directors unanimously decided that:

1. A share repurchase is in the best interest of the Corporation. The capital of the Corporation is not impaired and such repurchase shall not cause any impairment of the capital of the Corporation.
2. The purpose of the share repurchase is for general corporate purposes.
3. The purchase price upon repurchase not exceed any outstanding option or redemption values.
4. The Board may in its sole discretion elect to retire any and/or all repurchased shares from time to time. Any shares not retired may be retained as treasury shares or used for any other valid corporate purpose.
5. All share repurchases shall be conducted in an open market. No off-market transactions shall be used to effectuate the repurchase of shares of the common stock of the Corporation.
6. There are no significant corporate developments that have not been previously disclosed related to the Corporation other than the issuance of shares of its common stock on December 13, 2013 and in partial settlement of various outstanding convertible loan notes dated May 3, 2010. This conversion became effective prior to the decision to repurchase shares of common stock of the Corporation.
7. All shares repurchased by the Corporation would result in a decrease of the number of freely trading shares of our common stock in free float from time to time.
8. There is no arrangement contractual or otherwise extant related to this repurchase of common shares of the Corporation.
9. Any purchases of our shares of common stock made pursuant to this share repurchase are to be made subject to the various restrictions related to volume, price, and timing as set out in the applicable securities rules and regulations in an effort to minimize the impact of such repurchase on the market for the shares.
10. The share repurchase shall consist of no more than 20% of the issued and outstanding shares of common stock in the Corporation as may be in issuance from time to time. No other classes of securities are affected by the share repurchase.
11. The share repurchase does not conflict with any outstanding loan agreements, restrictions on other classes of securities of the Corporation, or any other commitments of the Corporation.

12. The share repurchase has been duly authorized as evidenced by this resolution and does not conflict or contravene any other corporate policy or rule.
13. The share repurchase shall be funded by a third-party, non-affiliated loan to the Corporation on terms and conditions to be agreed and approved by the Directors.
14. That Ronald Lowenthal shall be granted the authority to implement the stock repurchase.

Therefore, it was resolved that the Corporation shall

1. Appoint an investment bank or other licensed broker-dealer in the United States, to be selected by Ronald Lowenthal or in his absence, by the Directors of the Corporation to implement and execute such share repurchases.
2. The Corporation shall execute such documents and take such actions as may be reasonably necessary to effectuate the repurchase of common stock of the Corporation.
3. The Corporation shall retain such external counsel and other professional advisors as may be necessary to effectuate the share repurchase and to ensure compliance with relevant and applicable state and federal laws, including any relevant securities regulations.
4. The Corporation may repurchase common stock of the Corporation pursuant to the authority granted in this resolution for a period of one year from the date hereof.
5. Ronald Lowenthal is granted all such powers and is authorized to appoint any advisors and to enter into any agreement or sign any document on behalf of the Corporation as may be reasonably necessary to effectuate the repurchase of common stock of the Corporation.

FUNDING OF SHARE REPURCHASES:

On January 12, 2014, the Corporation entered into a Line of Credit Loan Agreement in the total amount of \$750,000 to fund the cost of share repurchases over the agreed upon period of time. Full details of this Agreement are contained in a Filing dated January 13, 2014.

The Directors of the Company were not prepared to utilize funds available to the Corporation under existing unrelated loan agreements for stock repurchases as they relate solely to corporate expenses and mining exploration expenditure.

RULE 10b-18 OF THE 1934 SECURITIES ACT (AS AMENDED) – PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUER AND OTHERS

**General Rules and Regulations
promulgated
under the
Securities Exchange Act of 1934**

Rule 10b-18 -- Purchases of Certain Equity Securities by the Issuer and Others

Preliminary Notes to Rule 240.10b-18

1. Rule 10b-18 provides an issuer (and its affiliated purchasers) with a "safe harbor" from liability for manipulation under sections 9(a)(2) (SEE THIS SECTION IN FILING) and Rule 10b-5 (SEE THIS SECTION IN FILING) under the Act solely by reason of the manner, timing, price, and volume of their repurchases when they repurchase the issuer's common stock in the market in accordance with the section's manner, timing, price, and volume conditions. As a safe harbor, compliance with Rule 10b-18 is voluntary. To come within the safe harbor, however, an issuer's repurchases must satisfy (on a daily basis) each of the section's four conditions. Failure to meet any one of the four conditions will remove all of the issuer's repurchases from the safe harbor for that day. The safe harbor, moreover, is not available for repurchases that, although made in technical compliance with the section, are part of a plan or scheme to evade the federal securities laws.
2. Regardless of whether the repurchases are effected in accordance with Rule 10b-18, reporting issuers must report their repurchasing activity as required by Item 703 of Regulation S-K and S-B and Item 15(e) of Form 20-F (17 CFR 249.220f) (regarding foreign private issuers), and closed-end management investment companies that are registered under the Investment Company Act of 1940 must report their repurchasing activity as required by Item 8 of Form N-CSR (17 CFR 249.331; 17 CFR 274.128).

Definitions. Unless otherwise provided, all terms used in this section shall have the same meaning as in the Act. In addition, the following definitions shall apply:

ADTV means the average daily trading volume reported for the security during the four calendar weeks preceding the week in which the Rule 10b-18 purchase is to be effected.

Affiliate means any person that directly or indirectly controls, is controlled by, or is under common control with, the issuer.

Affiliated purchaser means:

A person acting, directly or indirectly, in concert with the issuer for the purpose of acquiring the issuer's securities; or

An affiliate who, directly or indirectly, controls the issuer's purchases of such securities, whose purchases are controlled by the issuer, or whose purchases are under common control with those of the issuer; Provided, however, that "affiliated purchaser" shall not include a broker, dealer, or other person solely by reason of such broker, dealer, or other person effecting Rule 10b-18 purchases on behalf of the issuer or for its account, and shall not include an officer or director of the issuer solely by reason of that officer or director's participation in the decision to authorize Rule 10b-18 purchases by or on behalf of the issuer.

Agent independent of the issuer has the meaning contained in § 242.100 of this chapter.

Block means a quantity of stock that either:

Has a purchase price of \$200,000 or more; or

Is at least 5,000 shares and has a purchase price of at least \$50,000; or

Is at least 20 round lots of the security and totals 150 percent or more of the trading volume for that security or, in the event that trading volume data are unavailable, is at least 20 round lots of the security and totals at least one-tenth of one percent (.001) of the outstanding shares of the security, exclusive of any shares owned by any affiliate;

Provided, however, That a block under paragraph (a)(5)(i), (ii), and (iii) shall not include any amount a broker or dealer, acting as principal, has accumulated for the purpose of sale or resale to the issuer or to any affiliated purchaser of the issuer if the issuer or such affiliated purchaser knows or has reason to know that such amount was accumulated for such purpose, nor shall it include any amount that a broker or dealer has sold short to the issuer or to any affiliated purchaser of the issuer if the issuer or such affiliated purchaser knows or has reason to know that the sale was a short sale.

Consolidated system means a consolidated transaction or quotation reporting system that collects and publicly disseminates on a current and continuous basis transaction or quotation information in common equity securities pursuant to an effective transaction reporting plan or an effective national market system plan (as those terms are defined in Rule 242.600 of this chapter).

Market-wide trading suspension means a market-wide trading halt of 30 minutes or more that is:
Imposed pursuant to the rules of a national securities exchange or a national securities association in response to a market-wide decline during a single trading session; or

Declared by the Commission pursuant to its authority under section 12(k) of the Act.

Plan has the meaning contained in § 242.100 of this chapter.

Principal market for a security means the single securities market with the largest reported trading volume for the security during the six full calendar months preceding the week in which the Rule 10b-18 purchase is to be effected.

Public float value has the meaning contained in § 242.100 of this chapter.

Purchase price means the price paid per share as reported, exclusive of any commission paid to a broker acting as agent, or commission equivalent, mark-up, or differential paid to a dealer.

Riskless principal transaction means a transaction in which a broker or dealer after having received an order from an issuer to buy its security, buys the security as principal in the market at the same price to satisfy the issuer's buy order. The issuer's buy order must be effected at the same price per-share at which the broker or dealer bought the shares to satisfy the issuer's buy order, exclusive of any explicitly disclosed markup or markdown, commission equivalent, or other fee. In addition, only the first leg of the transaction, when the broker or dealer buys the security in the market as principal, is reported under the rules of a self-regulatory organization or under the Act. For purposes of this section, the broker or dealer must have written policies and procedures in place to assure that, at a minimum, the issuer's buy order was received prior to the offsetting transaction; the offsetting transaction is allocated to a riskless principal account or the issuer's account within 60 seconds of the execution; and the broker or dealer has supervisory systems in place to produce records that enable the broker or dealer to accurately and readily reconstruct, in a time-sequenced manner, all orders effected on a riskless principal basis.

Rule 10b-18 purchase means a purchase (or any bid or limit order that would effect such purchase) of an issuer's common stock (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) by or for the issuer or any affiliated purchaser (including riskless principal transactions). However, it does not include any purchase of such security:

Effected during the applicable restricted period of a distribution that is subject to Rule 242.102 of this chapter;

Effected by or for an issuer plan by an agent independent of the issuer;

Effected as a fractional share purchase (a fractional interest in a security) evidenced by a script certificate, order form, or similar document;

Effected during the period from the time of public announcement (as defined in Rule 165(f)) of a merger, acquisition, or similar transaction involving a recapitalization, until the earlier of the completion of such transaction or the completion of the vote by target shareholders. This exclusion does not apply to Rule 10b-18 purchases:

Effected during such transaction in which the consideration is solely cash and there is no valuation period; or

Where:

The total volume of Rule 10b-18 purchases effected on any single day does not exceed the lesser of 25% of the security's four-week ADTV or the issuer's average daily Rule 10b-18 purchases during the three full calendar months preceding the date of the announcement of such transaction;

The issuer's block purchases effected pursuant to paragraph (b)(4) of this section do not exceed the average size and frequency of the issuer's block purchases effected pursuant to paragraph (b)(4) of this section during the three full calendar months preceding the date of the announcement of such transaction; and

Such purchases are not otherwise restricted or prohibited;

Effected pursuant to Rule 13e-1;

Effected pursuant to a tender offer that is subject to Rule 13e-4 or specifically excepted from Rule 13e-4; or

Effected pursuant to a tender offer that is subject to section 14(d) of the Act and the rules and regulations thereunder.

Conditions to be met. Rule 10b-18 purchases shall not be deemed to have violated the anti-manipulation provisions of sections 9(a)(2) or 10(b) of the Act or Rule 10b-5 under the Act, solely by reason of the time, price, or amount of the Rule 10b-18 purchases, or the number of brokers or dealers used in connection with such purchases, if the issuer or affiliated purchaser of the issuer effects the Rule 10b-18 purchases according to each of the following conditions:

One broker or dealer. Rule 10b-18 purchases must be effected from or through only one broker or dealer on any single day; Provided, however, that:

The "one broker or dealer" condition shall not apply to Rule 10b-18 purchases that are not solicited by or on behalf of the issuer or its affiliated purchaser(s);

Where Rule 10b-18 purchases are effected by or on behalf of more than one affiliated purchaser of the issuer (or the issuer and one or more of its affiliated purchasers) on a single day, the issuer and all affiliated purchasers must use the same broker or dealer; and

Where Rule 10b-18 purchases are effected on behalf of the issuer by a broker-dealer that is not an electronic communication network (ECN) or other alternative trading system (ATS), that broker-dealer can access ECN or other ATS liquidity in order to execute repurchases on behalf of the issuer (or any affiliated purchaser of the issuer) on that day.

Time of purchases. Rule 10b-18 purchases must not be:

The opening (regular way) purchase reported in the consolidated system;

Effected during the 10 minutes before the scheduled close of the primary trading session in the principal market for the security, and the 10 minutes before the scheduled close of the primary trading session in the market where the purchase is effected, for a security that has an ADTV value of \$1 million or more and a public float value of \$150 million or more; and

Effected during the 30 minutes before the scheduled close of the primary trading session in the principal market for the security, and the 30 minutes before the scheduled close of the primary trading session in the market where the purchase is effected, for all other securities;

However, for purposes of this section, Rule 10b-18 purchases may be effected following the close of the primary trading session until the termination of the period in which last sale prices are reported in the consolidated system so long as such purchases are effected at prices that do not exceed the lower of the closing price of the primary trading session in the principal market for the security and any lower bids or sale prices subsequently reported in the consolidated system, and all of this section's conditions are met. However, for purposes of this section, the issuer may use one broker or dealer to effect Rule 10b-18 purchases during this period that may be different from the broker or dealer that it used during the primary trading session. However, the issuer's Rule 10b-18 purchase may not be the opening transaction of the session following the close of the primary trading session.

Price of purchases. Rule 10b-18 purchases must be effected at a purchase price that:

Does not exceed the highest independent bid or the last independent transaction price, whichever is higher, quoted or reported in the consolidated system at the time the Rule 10b-18 purchase is effected;

For securities for which bids and transaction prices are not quoted or reported in the consolidated system, Rule 10b-18 purchases must be effected at a purchase price that does not exceed the highest independent bid or the last independent transaction price, whichever is higher, displayed and disseminated on any national securities exchange or on any inter-dealer quotation system (as defined in Rule 15c2-11) that displays at least two priced quotations for the security, at the time the Rule 10b-18 purchase is effected; and

For all other securities, Rule 10b-18 purchases must be effected at a price no higher than the highest independent bid obtained from three independent dealers.

Volume of purchases. The total volume of Rule 10b-18 purchases effected by or for the issuer and any affiliated purchasers effected on any single day must not exceed 25 percent of the ADTV for that security; However, once each week, in lieu of purchasing under the 25 percent of ADTV limit for that day, the issuer or an affiliated purchaser of the issuer may effect one block purchase if:

No other Rule 10b-18 purchases are effected that day, and

The block purchase is not included when calculating a security's four week ADTV under this section.

Alternative conditions. The conditions of paragraph (b) of this section shall apply in connection with Rule 10b-18 purchases effected during a trading session following the imposition of a market-wide trading suspension, except:

That the time of purchases condition in paragraph (b)(2) of this section shall not apply, either:

From the reopening of trading until the scheduled close of trading on the day that the market-wide trading suspension is imposed; or

At the opening of trading on the next trading day until the scheduled close of trading that day, if a market-wide trading suspension was in effect at the close of trading on the preceding day; and

The volume of purchases condition in paragraph (b)(4) of this section is modified so that the amount of Rule 10b-18 purchases must not exceed 100 percent of the ADTV for that security.

Other purchases. No presumption shall arise that an issuer or an affiliated purchaser has violated the anti-manipulation provisions of sections 9(a)(2) or 10(b) of the Act, or Rule 10b-5 under the Act, if the Rule 10b-18 purchases of such issuer or affiliated purchaser do not meet the conditions specified in paragraph (b) or (c) of this section.

Regulatory History

47 FR 53339, Nov. 26, 1982, as amended by 62 FR 520, 543, Jan. 3, 1997, 62 FR 11321, 11323, March 12, 1997, 64 FR 52428, 52433, Sept. 29, 1999, 68 FR 64952, Nov. 17, 2003; 70 FR 37496, 37618, June 29, 2005.

FURTHER EXPLANATIONS PERTAINING TO RULES REFERENCED ABOVE:

SECTION 9 OF THE SECURITIES ACT OF 1934 (AS AMENDED):

Manipulation of Security Prices

- a. Transactions relating to purchase or sale of security

It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, or for any member of a national securities exchange--

1. For the purpose of creating a false or misleading appearance of active trading in any security registered on a national securities exchange, or a false or misleading appearance with respect to the market for any such security, (A) to effect any transaction in such security which involves no change in the beneficial ownership thereof, or (B) to enter an order or orders for the purchase of such security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties, or (C) to enter any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.
2. To effect, alone or with one or more other persons, a series of transactions in any security registered on a national securities exchange or in connection with any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.
3. If a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, to induce the purchase or sale of any security registered on a national securities exchange or any security based swap agreement (as defined in section 206B of the Gramm-Leach Bliley Act) with respect to such security by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.

4. If a dealer or broker, or the person selling or offering for sale or purchasing or offering to purchase the security or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, to make, regarding any security registered on a national securities exchange or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, for the purpose of inducing the purchase or sale of such security or such security-based swap agreement, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which he knew or had reasonable ground to believe was so false or misleading.
 5. For a consideration, received directly or indirectly from a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, to induce the purchase of any security registered on a national securities exchange or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.
 6. To effect either alone or with one or more other persons any series of transactions for the purchase and/or sale of any security registered on a national securities exchange for the purpose of pegging, fixing, or stabilizing the price of such security in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.
- b. Transactions relating to puts, calls, straddles, or options

It shall be unlawful for any person to effect, by use of any facility of a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors--

1. any transaction in connection with any security whereby any party to such transaction acquires (A) any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so; or (B) any security futures product on the security; or
2. any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any (A) such put, call, straddle, option, or privilege; or (B) such security futures product; or

3. any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any (A) such put, call, straddle, option, or privilege; or (B) such security futures product with relation to such security.

- c. Endorsement or guarantee of puts, calls, straddles, or options

It shall be unlawful for any member of a national securities exchange directly or indirectly to endorse or guarantee the performance of any put, call, straddle, option, or privilege in relation to any security registered on a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

- d. Registered warrant, right, or convertible security not included in "put", "call", "straddle", or "option"

The terms "put", "call", "straddle", "option", or "privilege" as used in this section shall not include any registered warrant, right, or convertible security.

- e. Persons liable; suits at law or in equity

Any person who willfully participates in any act or transaction in violation of subsections (a), (b), or (c) of this section, shall be liable to any person who shall purchase or sell any security at a price which was affected by such act or transaction, and the person so injured may sue in law or in equity in any court of competent jurisdiction to recover the damages sustained as a result of any such act or transaction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys' fees, against either party litigant. Every person who becomes liable to make any payment under this subsection may recover contribution as in cases of contract from any person who, if joined in the original suit, would have been liable to make the same payment. No action shall be maintained to enforce any liability created under this section, unless brought within one year after the discovery of the facts constituting the violation and within three years after such violation.

- f. Subsection (a) not applicable to exempted securities

The provisions of subsection (a) of this section shall not apply to an exempted security.

g. Foreign currencies

1. Notwithstanding any other provision of law, the Commission shall have the authority to regulate the trading of any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency (but not, with respect to any of the foregoing, an option on a contract for future delivery other than a security futures product).
2. Notwithstanding the Commodity Exchange Act, the Commission shall have the authority to regulate the trading of any security futures product to the extent provided in the securities laws.

h. Limitations on practices that affect market volatility

It shall be unlawful for any person, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets--

1. to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof; and
2. to prohibit or constrain, during periods of extraordinary market volatility, any trading practice in connection with the purchase or sale of equity securities that the Commission determines (A) has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets; and (B) is reasonably certain to engender such levels of volatility if not prohibited or constrained.

In adopting rules under paragraph (2), the Commission shall, consistent with the purposes of this subsection, minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security.

i. Limitation

The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 3A(b).

Legislative History

June 6, 1934, c. 404, Title I, § 9, 48 Stat. 889; Oct. 13, 1982, Pub.L. 97 303, § 3, 96 Stat. 1409; Oct. 16, 1990, Pub.L. 101-432, § 6(a), 104 Stat. 975; Dec. 21, 2000, Pub.L. 106-554, § 1(a)(5), 114 Stat. 2763.

RULE 10b-5 OF THE SECURITIES ACT OF 1934 (AS AMENDED):

EMPLOYMENT OF MANIPULATIVE OR DECEPTIVE PRACTISES:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

- a. To employ any device, scheme, or artifice to defraud,
 - b. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
 - c. To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,
- in connection with the purchase or sale of any security.

Regulatory History

13 FR 8183, Dec. 22, 1948, as amended at 16 FR 7928, Aug. 11, 1951

ITEM 703 OF REGULATIONS S-K:

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

- a. In the following tabular format, provide the information specified in paragraph (b) of this Item with respect to any purchase made by or on behalf of the issuer or any "affiliated purchaser," as defined in Rule 10b-18(a)(3) of this chapter, of shares or other units of any class of the issuer's equity securities that is registered by the issuer pursuant to section 12 of the Exchange Act.

ISSUER PURCHASES OF EQUITY SECURITIES				
Period	(a) Total Number of Shares (or Units) Purchased	(b) Average Price Paid per Share (or Unit)	(c) Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs	(d) Maximum Number (or Approximate Dollar Value) of Shares (or Units) that May Yet Be Purchased Under the Plans or Programs
Month #1 (identify beginning and ending dates)				
Month #2 (identify beginning and ending dates)				
Month #3 (identify beginning and ending dates)				
Total				

- b. The table shall include the following information for each class or series of securities for each month included in the period covered by the report:

The total number of shares (or units) purchased (column (a));
Instruction to paragraph (b)(1) of Item 703

Include in this column all issuer repurchases, including those made pursuant to publicly announced plans or programs and those not made pursuant to publicly announced plans or programs. Briefly disclose, by footnote to the table, the number of shares purchased other than through a publicly announced plan or program and the nature of the transaction (e.g., whether the purchases were made in open-market transactions, tender offers, in satisfaction of the company's obligations upon exercise of outstanding put options issued by the company, or other transactions).

The average price paid per share (or unit) (column (b));

The total number of shares (or units) purchased as part of publicly announced repurchase plans or programs (column (c)); and

The maximum number (or approximate dollar value) of shares (or units) that may yet be purchased under the plans or programs (column (d)).

Instructions to paragraphs (b)(3) and (b)(4) of Item 703

1. In the table, disclose this information in the aggregate for all plans or programs publicly announced.
2. By footnote to the table, indicate:
 - a. The date each plan or program was announced;
 - b. The dollar amount (or share or unit amount) approved;
 - c. The expiration date (if any) of each plan or program;
 - d. Each plan or program that has expired during the period covered by the table; and
 - e. Each plan or program the issuer has determined to terminate prior to expiration, or under which the issuer does not intend to make further purchases.

Instruction to Item 703

Disclose all purchases covered by this Item, including purchases that do not satisfy the conditions of the safe harbor of Rule 10b-18 of this chapter.

Regulatory History

47 FR 11401, Mar. 16, 1982 as amended by 68 FR 64952, Nov. 17, 2003.

RULE 165 OF THE SECURITIES ACT OF 1934 (AS AMENDED):

Offers Made in Connection with a Business Combination Transaction

Preliminary:

This section is available only to communications relating to business combinations. The exemption does not apply to communications that may be in technical compliance with this section, but have the primary purpose or effect of conditioning the market for another transaction, such as a capital-raising or resale transaction.

- a. Communications before a registration statement is filed.

Notwithstanding section 5(c) of the Act, the offeror of securities in a business combination transaction to be registered under the Act may make an offer to sell or solicit an offer to buy those securities from and including the first public announcement until the filing of a registration statement related to the transaction, so long as any written communication (other than non-public communications among participants) made in connection with or relating to the transaction (i.e., prospectus) is filed in accordance with Rule 425 and the conditions in paragraph (c) of this section are satisfied.

- b. Communications after a registration statement is filed.

Notwithstanding section 5(b)(1) of the Act, any written communication (other than non-public communications among participants) made in connection with or relating to a business combination transaction (i.e., prospectus) after the filing of a registration statement related to the transaction need not satisfy the requirements of section 10 of the Act, so long as the prospectus is filed in accordance with Rule 424 or Rule 425 and the conditions in paragraph (c) of this section are satisfied.

- c. Conditions.

To rely on paragraphs (a) and (b) of this section:

1. Each prospectus must contain a prominent legend that urges investors to read the relevant documents filed or to be filed with the Commission because they contain important information. The legend also must explain to investors that they can get the documents for free at the Commission's web site and describe which documents are available free from the offeror; and

2. In an exchange offer, the offer must be made in accordance with the applicable tender offer rules (Rule 14d-1 through Rule 14e-8); and, in a transaction involving the vote of security holders, the offer must be made in accordance with the applicable proxy or information statement rules (Rule 14a-1 through Rule 14a-101 and Rule 14c-1 through Rule 14c-101).

d. Applicability.

This section is applicable not only to the offeror of securities in a business combination transaction, but also to any other participant that may need to rely on and complies with this section in communicating about the transaction.

e. Failure to file or delay in filing.

An immaterial or unintentional failure to file or delay in filing a prospectus described in this section will not result in a violation of section 5(b)(1) or (c) of the Act, so long as:

1. A good faith and reasonable effort was made to comply with the filing requirement; and
2. The prospectus is filed as soon as practicable after discovery of the failure to file.

f. Definitions.

1. A business combination transaction means any transaction specified in Rule 145(a) or exchange offer;
2. A participant is any person or entity that is a party to the business combination transaction and any persons authorized to act on their behalf; and
3. Public announcement is any oral or written communication by a participant that is reasonably designed to, or has the effect of, informing the public or security holders in general about the business combination transaction.

Regulatory History:

64 FR 61408, 61450, Nov. 10, 1999

DELAWARE STATE RESTRICTIONS ON STOCK REPURCHASES:

The Corporation is incorporated in the State of Delaware.

Certain provisions of the Delaware General Corporation Law (“DGCL”) contain restrictions regarding legally available funds that apply to repurchases of shares of capital stock. Under DGCL Section 160, a Delaware corporation cannot purchase shares of its capital stock when the purchase “would cause any impairment of the capital of the corporation.”

The Directors of the Corporation have ensured that this requirement has been met.

APPLICABLE DELAWARE STATE LAW REQUIREMENTS PERTAINING TO STOCK REPURCHASES:

TITLE 8

Corporations

CHAPTER 1. GENERAL CORPORATION LAW

Subchapter V. Stock and Dividends

§ 151 Classes and series of stock; redemption; rights.

- (a) Every corporation may issue 1 or more classes of stock or 1 or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the certificate of incorporation or of any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of its certificate of incorporation. Any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any such class or series of stock may be made dependent upon facts ascertainable outside the certificate of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by its certificate of incorporation, provided that the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such class or series of stock is clearly and expressly set forth in the certificate of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. The term "facts," as used in this subsection, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. The power to increase or decrease or otherwise adjust the capital stock as provided in this chapter shall apply to all or any such classes of stock.
- (b) Any stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event; provided however, that immediately following any such redemption the corporation shall have outstanding 1 or more shares of 1 or more classes or series of stock, which share, or shares together, shall have full voting powers. Notwithstanding the limitation stated in the foregoing proviso:
 - (1) Any stock of a regulated investment company registered under the Investment Company Act of 1940 [15 U.S.C. § 80 a-1 et seq.], as heretofore or hereafter amended, may be made subject to redemption by the corporation at its option or at the option of the holders of such stock.

- (2) Any stock of a corporation which holds (directly or indirectly) a license or franchise from a governmental agency to conduct its business or is a member of a national securities exchange, which license, franchise or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it.

Any stock which may be made redeemable under this section may be redeemed for cash, property or rights, including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to subsection (a) of this section.

- (c) The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, on such conditions and at such times as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided, payable in preference to, or in such relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which such stocks are entitled, shall have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends as elsewhere in this chapter provided.
- (d) The holders of the preferred or special stock of any class or of any series thereof shall be entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the corporation as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.
- (e) Any stock of any class or of any series thereof may be made convertible into, or exchangeable for, at the option of either the holder or the corporation or upon the happening of a specified event, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation, at such price or prices or at such rate or rates of exchange and with such adjustments as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

- (f) If any corporation shall be authorized to issue more than 1 class of stock or more than 1 series of any class, the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in § 202 of this title, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the corporation shall issue to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this section or § 156, § 202(a) or § 218(a) of this title or with respect to this section a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.
- (g) When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, shall not have been set forth in the certificate of incorporation or in any amendment thereto but shall be provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the certificate of incorporation or any amendment thereto, a certificate of designations setting forth a copy of such resolution or resolutions and the number of shares of stock of such class or series as to which the resolution or resolutions apply shall be executed, acknowledged, filed and shall become effective, in accordance with § 103 of this title. Unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such series to which such resolution or resolutions apply may be increased (but not above the total number of authorized shares of the class) or decreased (but not below the number of shares thereof then outstanding) by a certificate likewise executed, acknowledged and filed setting forth a statement that a specified increase or decrease therein had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of such shares shall be decreased the number of shares so specified in the certificate shall resume the status which they had prior to the adoption of the first resolution or resolutions. When no shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of such class or series are outstanding, and that none will be issued subject to the certificate of designations previously filed with respect to such class or series, may be executed, acknowledged and filed in accordance with § 103 of this title and, when

such certificate becomes effective, it shall have the effect of eliminating from the certificate of incorporation all matters set forth in the certificate of designations with respect to such class or series of stock. Unless otherwise provided in the certificate of incorporation, if no shares of stock have been issued of a class or series of stock established by a resolution of the board of directors, the voting powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, may be amended by a resolution or resolutions adopted by the board of directors. A certificate which:

- (1) States that no shares of the class or series have been issued;
- (2) Sets forth a copy of the resolution or resolutions; and
- (3) If the designation of the class or series is being changed, indicates the original designation and the new designation,

shall be executed, acknowledged and filed and shall become effective, in accordance with § 103 of this title. When any certificate filed under this subsection becomes effective, it shall have the effect of amending the certificate of incorporation; except that neither the filing of such certificate nor the filing of a restated certificate of incorporation pursuant to § 245 of this title shall prohibit the board of directors from subsequently adopting such resolutions as authorized by this subsection.

8 Del. C. 1953, § 151; 56 Del. Laws, c. 50; 57 Del. Laws, c. 148, §§ 8, 9; 57 Del. Laws, c. 421, §§ 3, 4; 59 Del. Laws, c. 106, § 1; 64 Del. Laws, c. 112, §§ 8-10; 65 Del. Laws, c. 127, § 4; 66 Del. Laws, c. 136, § 4; 67 Del. Laws, c. 376, § 4; 69 Del. Laws, c. 264, § 1; 70 Del. Laws, c. 587, § 12; 71 Del. Laws, c. 339, § 18.;

§ 152 Issuance of stock; lawful consideration; fully paid stock.

The consideration, as determined pursuant to § 153(a) and (b) of this title, for subscriptions to, or the purchase of, the capital stock to be issued by a corporation shall be paid in such form and in such manner as the board of directors shall determine. The board of directors may authorize capital stock to be issued for consideration consisting of cash, any tangible or intangible property or any benefit to the corporation, or any combination thereof. The board of directors may determine the amount of such consideration by approving a formula by which the amount of consideration is determined. In the absence of actual fraud in the transaction, the judgment of the directors as to the value of such consideration shall be conclusive. The capital stock so issued shall be deemed to be fully paid and nonassessable stock upon receipt by the corporation of such consideration; provided, however, nothing contained herein shall prevent the board of directors from issuing partly paid shares under § 156 of this title.

8 Del. C. 1953, § 152; 56 Del. Laws, c. 50; 59 Del. Laws, c. 437, § 8; 74 Del. Laws, c. 326, § 3; 79 Del. Laws, c. 72, § 3.;

§ 153 Consideration for stock.

- (a) Shares of stock with par value may be issued for such consideration, having a value not less than the par value thereof, as determined from time to time by the board of directors, or by the stockholders if the certificate of incorporation so provides.
- (b) Shares of stock without par value may be issued for such consideration as is determined from time to time by the board of directors, or by the stockholders if the certificate of incorporation so provides.
- (c) Treasury shares may be disposed of by the corporation for such consideration as may be determined from time to time by the board of directors, or by the stockholders if the certificate of incorporation so provides.
- (d) If the certificate of incorporation reserves to the stockholders the right to determine the consideration for the issue of any shares, the stockholders shall, unless the certificate requires a greater vote, do so by a vote of a majority of the outstanding stock entitled to vote thereon.

8 Del. C. 1953, § 153; 56 Del. Laws, c. 50; 57 Del. Laws, c. 148, § 10.;

§ 154 Determination of amount of capital; capital, surplus and net assets defined.

Any corporation may, by resolution of its board of directors, determine that only a part of the consideration which shall be received by the corporation for any of the shares of its capital stock which it shall issue from time to time shall be capital; but, in case any of the shares issued shall be shares having a par value, the amount of the part of such consideration so determined to be capital shall be in excess of the aggregate par value of the shares issued for such consideration having a par value, unless all the shares issued shall be shares having a par value, in which case the amount of the part of such consideration so determined to be capital need be only equal to the aggregate par value of such shares. In each such case the board of directors shall specify in dollars the part of such consideration which shall be capital. If the board of directors shall not have determined (1) at the time of issue of any shares of the capital stock of the corporation issued for cash or (2) within 60 days after the issue of any shares of the capital stock of the corporation issued for consideration other than cash what part of the consideration for such shares shall be capital, the capital of the corporation in respect of such shares shall be an amount equal to the aggregate par value of such shares having a par value, plus the amount of the consideration for such shares without par value. The amount of the consideration so determined to be capital in respect of any shares without par value shall be the stated capital of such shares. The capital of the corporation may be increased from time to time by resolution of the board of directors directing that a portion of the net assets of the corporation in excess of the amount so determined to be capital be transferred to the capital account. The board of directors may direct that the portion of such net assets so transferred shall be treated as capital in respect of any shares of the corporation of any designated class or classes. The excess, if any, at any given time, of the net assets of the corporation over the amount so determined to be capital shall be surplus. Net assets means the amount by which total assets exceed total liabilities. Capital and surplus are not liabilities for this purpose. Notwithstanding anything in this section to the contrary, for purposes of this section and §§ 160 and 170 of this title, the capital of any nonstock corporation shall be deemed to be zero.

8 Del. C. 1953, § 154; 56 Del. Laws, c. 50; 59 Del. Laws, c. 106, § 2; 74 Del. Laws, c. 326, § 4; 77 Del. Laws, c. 253, § 15.;

§ 155 Fractions of shares.

A corporation may, but shall not be required to, issue fractions of a share. If it does not issue fractions of a share, it shall (1) arrange for the disposition of fractional interests by those entitled thereto, (2) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined or (3) issue scrip or warrants in registered form (either represented by a certificate or uncertificated) or in bearer form (represented by a certificate) which shall entitle the holder to receive a full share upon the surrender of such scrip or warrants aggregating a full share. A certificate for a fractional share or an uncertificated fractional share shall, but scrip or warrants shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause scrip or warrants to be issued subject to the conditions that they shall become void if not exchanged for certificates representing the full shares or uncertificated full shares before a specified date, or subject to the conditions that the shares for which scrip or warrants are exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of scrip or warrants, or subject to any other conditions which the board of directors may impose.

8 Del. C. 1953, § 155; 56 Del. Laws, c. 50; 56 Del. Laws, c. 186, § 7; 57 Del. Laws, c. 148, § 11; 64 Del. Laws, c. 112, § 11.;

§ 156 Partly paid shares.

Any corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, or upon the books and records of the corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

8 Del. C. 1953, § 156; 56 Del. Laws, c. 50; 64 Del. Laws, c. 112, § 12.;

§ 157 Rights and options respecting stock.

- (a) Subject to any provisions in the certificate of incorporation, every corporation may create and issue, whether or not in connection with the issue and sale of any shares of stock or other securities of the corporation, rights or options entitling the holders thereof to acquire from the corporation any shares of its capital stock of any class or classes, such rights or options to be evidenced by or in such instrument or instruments as shall be approved by the board of directors.

- (b) The terms upon which, including the time or times which may be limited or unlimited in duration, at or within which, and the consideration (including a formula by which such consideration may be determined) for which any such shares may be acquired from the corporation upon the exercise of any such right or option, shall be such as shall be stated in the certificate of incorporation, or in a resolution adopted by the board of directors providing for the creation and issue of such rights or options, and, in every case, shall be set forth or incorporated by reference in the instrument or instruments evidencing such rights or options. In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuance of such rights or options and the sufficiency thereof shall be conclusive.
- (c) The board of directors may, by a resolution adopted by the board, authorize 1 or more officers of the corporation to do 1 or both of the following: (i) designate officers and employees of the corporation or of any of its subsidiaries to be recipients of such rights or options created by the corporation, and (ii) determine the number of such rights or options to be received by such officers and employees; provided, however, that the resolution so authorizing such officer or officers shall specify the total number of rights or options such officer or officers may so award. The board of directors may not authorize an officer to designate himself or herself as a recipient of any such rights or options.
- (d) In case the shares of stock of the corporation to be issued upon the exercise of such rights or options shall be shares having a par value, the consideration so to be received therefor shall have a value not less than the par value thereof. In case the shares of stock so to be issued shall be shares of stock without par value, the consideration therefor shall be determined in the manner provided in § 153 of this title.

8 Del. C. 1953, § 157; 56 Del. Laws, c. 50; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 82, §§ 4-7; 74 Del. Laws, c. 326, §§ 5-7.;

§ 158 Stock certificates; uncertificated shares.

The shares of a corporation shall be represented by certificates, provided that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the corporation by the chairperson or vice-chairperson of the board of directors, or the president or vice-president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of such corporation representing the number of shares registered in certificate form. Any or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. A corporation shall not have power to issue a certificate in bearer form.

8 Del. C. 1953, § 158; 56 Del. Laws, c. 50; 56 Del. Laws, c. 186, § 8; 58 Del. Laws, c. 235, § 2; 64 Del. Laws, c. 112, § 13; 71 Del. Laws, c. 339, § 19; 73 Del. Laws, c. 298, § 3; 75 Del. Laws, c. 30, § 2.;

§ 159 Shares of stock; personal property, transfer and taxation.

The shares of stock in every corporation shall be deemed personal property and transferable as provided in Article 8 of subtitle I of Title 6. No stock or bonds issued by any corporation organized under this chapter shall be taxed by this State when the same shall be owned by nonresidents of this State, or by foreign corporations. Whenever any transfer of shares shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of transfer if, when the certificates are presented to the corporation for transfer or uncertificated shares are requested to be transferred, both the transferor and transferee request the corporation to do so.

8 Del. C. 1953, § 159; 56 Del. Laws, c. 50; 64 Del. Laws, c. 112, § 14.;

§ 160 Corporation's powers respecting ownership, voting, etc., of its own stock; rights of stock called for redemption.

(a) Every corporation may purchase, redeem, receive, take or otherwise acquire, own and hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own shares; provided, however, that no corporation shall:

(1) Purchase or redeem its own shares of capital stock for cash or other property when the capital of the corporation is impaired or when such purchase or redemption would cause any impairment of the capital of the corporation, except that a corporation other than a nonstock corporation may purchase or redeem out of capital any of its own shares which are entitled upon any distribution of its assets, whether by dividend or in liquidation, to a preference over another class or series of its stock, or, if no shares entitled to such a preference are outstanding, any of its own shares, if such shares will be retired upon their acquisition and the capital of the corporation reduced in accordance with §§ 243 and 244 of this title. Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of a corporation given by it as consideration for its acquisition by purchase, redemption or exchange of its shares of stock if at the time such note, debenture or obligation was delivered by the corporation its capital was not then impaired or did not thereby become impaired;

(2) Purchase, for more than the price at which they may then be redeemed, any of its shares which are redeemable at the option of the corporation; or

(3)a. In the case of a corporation other than a nonstock corporation, redeem any of its shares, unless their redemption is authorized by § 151(b) of this title and then only in accordance with such section and the certificate of incorporation, or

b. In the case of a nonstock corporation, redeem any of its membership interests, unless their redemption is authorized by the certificate of incorporation and then only in accordance with the certificate of incorporation.

(b) Nothing in this section limits or affects a corporation's right to resell any of its shares theretofore purchased or redeemed out of surplus and which have not been retired, for such consideration as shall be fixed by the board of directors.

- (c) Shares of its own capital stock belonging to the corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the corporation, shall neither be entitled to vote nor be counted for quorum purposes. Nothing in this section shall be construed as limiting the right of any corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.
- (d) Shares which have been called for redemption shall not be deemed to be outstanding shares for the purpose of voting or determining the total number of shares entitled to vote on any matter on and after the date on which written notice of redemption has been sent to holders thereof and a sum sufficient to redeem such shares has been irrevocably deposited or set aside to pay the redemption price to the holders of the shares upon surrender of certificates therefor.

8 Del. C. 1953, § 160; 56 Del. Laws, c. 50; 57 Del. Laws, c. 649, § 1; 59 Del. Laws, c. 106, § 3; 59 Del. Laws, c. 437, § 9; 70 Del. Laws, c. 349, § 3; 77 Del. Laws, c. 253, §§ 16, 17.;

§ 161 Issuance of additional stock; when and by whom.

The directors may, at any time and from time to time, if all of the shares of capital stock which the corporation is authorized by its certificate of incorporation to issue have not been issued, subscribed for, or otherwise committed to be issued, issue or take subscriptions for additional shares of its capital stock up to the amount authorized in its certificate of incorporation.

8 Del. C. 1953, § 161; 56 Del. Laws, c. 50.;

§ 162 Liability of stockholder or subscriber for stock not paid in full.

- (a) When the whole of the consideration payable for shares of a corporation has not been paid in, and the assets shall be insufficient to satisfy the claims of its creditors, each holder of or subscriber for such shares shall be bound to pay on each share held or subscribed for by such holder or subscriber the sum necessary to complete the amount of the unpaid balance of the consideration for which such shares were issued or are to be issued by the corporation.
- (b) The amounts which shall be payable as provided in subsection (a) of this section may be recovered as provided in § 325 of this title, after a writ of execution against the corporation has been returned unsatisfied as provided in said § 325.
- (c) Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable for any unpaid portion of such consideration, but the transferor shall remain liable therefor.
- (d) No person holding shares in any corporation as collateral security shall be personally liable as a stockholder but the person pledging such shares shall be considered the holder thereof and shall be so liable. No executor, administrator, guardian, trustee or other fiduciary shall be personally liable as a stockholder, but the estate or funds held by such executor, administrator, guardian, trustee or other fiduciary in such fiduciary capacity shall be liable.

- (e) No liability under this section or under § 325 of this title shall be asserted more than 6 years after the issuance of the stock or the date of the subscription upon which the assessment is sought.
- (f) In any action by a receiver or trustee of an insolvent corporation or by a judgment creditor to obtain an assessment under this section, any stockholder or subscriber for stock of the insolvent corporation may appear and contest the claim or claims of such receiver or trustee.

8 Del. C. 1953, § 162; 56 Del. Laws, c. 50; 71 Del. Laws, c. 339, § 20.;

§ 163 Payment for stock not paid in full.

The capital stock of a corporation shall be paid for in such amounts and at such times as the directors may require. The directors may, from time to time, demand payment, in respect of each share of stock not fully paid, of such sum of money as the necessities of the business may, in the judgment of the board of directors, require, not exceeding in the whole the balance remaining unpaid on said stock, and such sum so demanded shall be paid to the corporation at such times and by such installments as the directors shall direct. The directors shall give written notice of the time and place of such payments, which notice shall be mailed at least 30 days before the time for such payment, to each holder of or subscriber for stock which is not fully paid at such holder's or subscriber's last known post-office address.

8 Del. C. 1953, § 163; 56 Del. Laws, c. 50; 71 Del. Laws, c. 339, § 21.;

§ 164 Failure to pay for stock; remedies.

When any stockholder fails to pay any installment or call upon such stockholder's stock which may have been properly demanded by the directors, at the time when such payment is due, the directors may collect the amount of any such installment or call or any balance thereof remaining unpaid, from the said stockholder by an action at law, or they shall sell at public sale such part of the shares of such delinquent stockholder as will pay all demands then due from such stockholder with interest and all incidental expenses, and shall transfer the shares so sold to the purchaser, who shall be entitled to a certificate therefor.

Notice of the time and place of such sale and of the sum due on each share shall be given by advertisement at least 1 week before the sale, in a newspaper of the county in this State where such corporation's registered office is located, and such notice shall be mailed by the corporation to such delinquent stockholder at such stockholder's last known post-office address, at least 20 days before such sale.

If no bidder can be had to pay the amount due on the stock, and if the amount is not collected by an action at law, which may be brought within the county where the corporation has its registered office, within 1 year from the date of the bringing of such action at law, the said stock and the amount previously paid in by the delinquent stockholder on the stock shall be forfeited to the corporation.

8 Del. C. 1953, § 164; 56 Del. Laws, c. 50; 59 Del. Laws, c. 106, § 4; 71 Del. Laws, c. 339, § 22.;

§ 165 Revocability of preincorporation subscriptions.

Unless otherwise provided by the terms of the subscription, a subscription for stock of a corporation to be formed shall be irrevocable, except with the consent of all other subscribers or the corporation, for a period of 6 months from its date.

8 Del. C. 1953, § 165; 56 Del. Laws, c. 50.;

§ 166 Formalities required of stock subscriptions.

A subscription for stock of a corporation, whether made before or after the formation of a corporation, shall not be enforceable against a subscriber, unless in writing and signed by the subscriber or by such subscriber's agent.

8 Del. C. 1953, § 166; 56 Del. Laws, c. 50; 71 Del. Laws, c. 339, § 23.;

§ 167 Lost, stolen or destroyed stock certificates; issuance of new certificate or uncertificated shares.

A corporation may issue a new certificate of stock or uncertificated shares in place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

8 Del. C. 1953, § 167; 56 Del. Laws, c. 50; 64 Del. Laws, c. 112, § 15; 71 Del. Laws, c. 339, § 24.;

§ 168 Judicial proceedings to compel issuance of new certificate or uncertificated shares.

- (a) If a corporation refuses to issue new uncertificated shares or a new certificate of stock in place of a certificate theretofore issued by it, or by any corporation of which it is the lawful successor, alleged to have been lost, stolen or destroyed, the owner of the lost, stolen or destroyed certificate or such owner's legal representatives may apply to the Court of Chancery for an order requiring the corporation to show cause why it should not issue new uncertificated shares or a new certificate of stock in place of the certificate so lost, stolen or destroyed. Such application shall be by a complaint which shall state the name of the corporation, the number and date of the certificate, if known or ascertainable by the plaintiff, the number of shares of stock represented thereby and to whom issued, and a statement of the circumstances attending such loss, theft or destruction. Thereupon the court shall make an order requiring the corporation to show cause at a time and place therein designated, why it should not issue new uncertificated shares or a new certificate of stock in place of the one described in the complaint. A copy of the complaint and order shall be served upon the corporation at least 5 days before the time designated in the order.

- (b) If, upon hearing, the court is satisfied that the plaintiff is the lawful owner of the number of shares of capital stock, or any part thereof, described in the complaint, and that the certificate therefor has been lost, stolen or destroyed, and no sufficient cause has been shown why new uncertificated shares or a new certificate should not be issued in place thereof, it shall make an order requiring the corporation to issue and deliver to the plaintiff new uncertificated shares or a new certificate for such shares. In its order the court shall direct that, prior to the issuance and delivery to the plaintiff of such new uncertificated shares or a new certificate, the plaintiff give the corporation a bond in such form and with such security as to the court appears sufficient to indemnify the corporation against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new uncertificated shares or new certificate. No corporation which has issued uncertificated shares or a certificate pursuant to an order of the court entered hereunder shall be liable in an amount in excess of the amount specified in such bond.

8 Del. C. 1953, § 168; 56 Del. Laws, c. 50; 64 Del. Laws, c. 112, § 16; 71 Del. Laws, c. 339, § 25.;

§ 169 Situs of ownership of stock.

For all purposes of title, action, attachment, garnishment and jurisdiction of all courts held in this State, but not for the purpose of taxation, the situs of the ownership of the capital stock of all corporations existing under the laws of this State, whether organized under this chapter or otherwise, shall be regarded as in this State.

8 Del. C. 1953, § 169; 56 Del. Laws, c. 50.;

§ 170 Dividends; payment; wasting asset corporations.

- (a) The directors of every corporation, subject to any restrictions contained in its certificate of incorporation, may declare and pay dividends upon the shares of its capital stock either:

- (1) Out of its surplus, as defined in and computed in accordance with §§ 154 and 244 of this title; or
- (2) In case there shall be no such surplus, out of its net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year.

If the capital of the corporation, computed in accordance with §§ 154 and 244 of this title, shall have been diminished by depreciation in the value of its property, or by losses, or otherwise, to an amount less than the aggregate amount of the capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets, the directors of such corporation shall not declare and pay out of such net profits any dividends upon any shares of any classes of its capital stock until the deficiency in the amount of capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets shall have been repaired. Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of the corporation paid by it as a dividend on shares of its stock, or any payment made thereon, if at the time such note, debenture or obligation was delivered by the corporation, the corporation had either surplus or net profits as provided in (a)(1) or (2) of this section from which the dividend could lawfully have been paid.

(b) Subject to any restrictions contained in its certificate of incorporation, the directors of any corporation engaged in the exploitation of wasting assets (including but not limited to a corporation engaged in the exploitation of natural resources or other wasting assets, including patents, or engaged primarily in the liquidation of specific assets) may determine the net profits derived from the exploitation of such wasting assets or the net proceeds derived from such liquidation without taking into consideration the depletion of such assets resulting from lapse of time, consumption, liquidation or exploitation of such assets.

8 Del. C. 1953, § 170; 56 Del. Laws, c. 50; 56 Del. Laws, c. 186, § 9; 59 Del. Laws, c. 106, § 5; 64 Del. Laws, c. 112, § 17; 67 Del. Laws, c. 376, § 5; 69 Del. Laws, c. 61, § 3; 72 Del. Laws, c. 123, § 3; 77 Del. Laws, c. 253, § 18.;

§ 171 Special purpose reserves.

The directors of a corporation may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

8 Del. C. 1953, § 171; 56 Del. Laws, c. 50.;

§ 172 Liability of directors and committee members as to dividends or stock redemption.

A member of the board of directors, or a member of any committee designated by the board of directors, shall be fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of its officers or employees, or committees of the board of directors, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation, as to the value and amount of the assets, liabilities and/or net profits of the corporation or any other facts pertinent to the existence and amount of surplus or other funds from which dividends might properly be declared and paid, or with which the corporation's stock might properly be purchased or redeemed.

8 Del. C. 1953, § 172; 56 Del. Laws, c. 50; 56 Del. Laws, c. 186, § 10; 66 Del. Laws, c. 136, § 5.;

§ 173 Declaration and payment of dividends.

No corporation shall pay dividends except in accordance with this chapter. Dividends may be paid in cash, in property, or in shares of the corporation's capital stock. If the dividend is to be paid in shares of the corporation's theretofore unissued capital stock the board of directors shall, by resolution, direct that there be designated as capital in respect of such shares an amount which is not less than the aggregate par value of par value shares being declared as a dividend and, in the case of shares without par value being declared as a dividend, such amount as shall be determined by the board of directors. No such designation as capital shall be necessary if shares are being distributed by a corporation pursuant to a split-up or division of its stock rather than as payment of a dividend declared payable in stock of the corporation.

8 Del. C. 1953, § 173; 56 Del. Laws, c. 50; 59 Del. Laws, c. 437, § 10; 65 Del. Laws, c. 127, § 5.;

§ 174 Liability of directors for unlawful payment of dividend or unlawful stock purchase or redemption; exoneration from liability; contribution among directors; subrogation.

- (a) In case of any wilful or negligent violation of § 160 or § 173 of this title, the directors under whose administration the same may happen shall be jointly and severally liable, at any time within 6 years after paying such unlawful dividend or after such unlawful stock purchase or redemption, to the corporation, and to its creditors in the event of its dissolution or insolvency, to the full amount of the dividend unlawfully paid, or to the full amount unlawfully paid for the purchase or redemption of the corporation's stock, with interest from the time such liability accrued. Any director who may have been absent when the same was done, or who may have dissented from the act or resolution by which the same was done, may be exonerated from such liability by causing his or her dissent to be entered on the books containing the minutes of the proceedings of the directors at the time the same was done, or immediately after such director has notice of the same.
- (b) Any director against whom a claim is successfully asserted under this section shall be entitled to contribution from the other directors who voted for or concurred in the unlawful dividend, stock purchase or stock redemption.
- (c) Any director against whom a claim is successfully asserted under this section shall be entitled, to the extent of the amount paid by such director as a result of such claim, to be subrogated to the rights of the corporation against stockholders who received the dividend on, or assets for the sale or redemption of, their stock with knowledge of facts indicating that such dividend, stock purchase or redemption was unlawful under this chapter, in proportion to the amounts received by such stockholders respectively.

8 Del. C. 1953, § 174; 56 Del. Laws, c. 50; 59 Del. Laws, c. 106, § 6; 71 Del. Laws, c. 339, §§ 26, 27.;

DATED: JANUARY 13, 2013

RONALD YADIN LOWENTHAL

EXECUTIVE CHAIRMAN

EXHIBITS:

Directors' Resolution dated January 13, 2014

Frequently Asked Questions about Rule 10b-18 and Stock Repurchase Programs

GNCC CAPITAL, INC.

UNANIMOUS RESOLUTION OF THE BOARD OF DIRECTORS

Unanimous Resolution of the Board of Directors of GNCC Capital, Inc., a Delaware Corporation (the "Corporation") related to the repurchase of shares in the Corporation.

We, the undersigned, being all of directors of the Corporation, consent and agree that the corporate resolution was made on January 13, 2014.

Having given due consideration, the directors unanimously consent and agree that the repurchase is desirable and is in the best interest of the Corporation and its shareholders. Accordingly, we do hereby unanimously consent to the proposed share repurchase in accordance with the articles and bylaws of the Corporation, Delaware state law and relevant federal rules and regulations, including relevant securities laws. The board of directors unanimously decided that

1. A share repurchase is in the best interest of the Corporation. The capital of the Corporation is not impaired and such repurchase shall not cause any impairment of the capital of the Corporation.
2. The purpose of the share repurchase is for general corporate purposes.
3. The purchase price upon repurchase not exceed any outstanding option or redemption values.
4. The Board may in its sole discretion elect to retire any and/or all repurchased shares from time to time. Any shares not retired may be retained as treasury shares or used for any other valid corporate purpose.
5. All share repurchases shall be conducted in an open market. No off-market transactions shall be used to effectuate the repurchase of shares of the common stock of the Corporation.
6. There are no significant corporate developments that have not been previously disclosed related to the Corporation other than the issuance of shares of its common stock on December 13, 2013 and in partial settlement of various outstanding convertible loan notes dated May 3, 2010. This conversion became effective prior to the decision to repurchase shares of common stock of the Corporation.
7. All shares repurchased by the Corporation would result in a decrease of the number of freely trading shares of our common stock in free float from time to time.
8. There is no arrangement contractual or otherwise extant related to this repurchase of common shares of the Corporation.
9. Any purchases of our shares of common stock made pursuant to this share repurchase are to be made subject to the various restrictions related to volume, price, and timing as set out in the applicable securities rules and regulations in an effort to minimize the impact of such repurchase on the market for the shares.
10. The share repurchase shall consist of no more than 20% of the issued and outstanding shares of common stock in the Corporation as may be in issuance from time to time. No other classes of securities are affected by the share repurchase.

11. The share repurchase does not conflict with any outstanding loan agreements, restrictions on other classes of securities of the Corporation, or any other commitments of the Corporation.
12. The share repurchase has been duly authorized as evidenced by this resolution and does not conflict or contravene any other corporate policy or rule.
13. The share repurchase shall be funded by a third-party, non-affiliated loan to the Corporation on terms and conditions to be agreed and approved by the Directors.
14. That Ronald Lowenthal shall be granted the authority to implement the stock repurchase.

Therefore, it is resolved that the Corporation shall

1. Appoint an investment bank or other licensed broker-dealer in the United States, to be selected by Ronald Lowenthal or in his absence, by the Directors of the Corporation to implement and execute such share repurchases.
2. The Corporation shall execute such documents and take such actions as may be reasonably necessary to effectuate the repurchase of common stock of the Corporation.
3. The Corporation shall retain such external counsel and other professional advisors as may be necessary to effectuate the share repurchase and to ensure compliance with relevant and applicable state and federal laws, including any relevant securities regulations.
4. The Corporation may repurchase common stock of the Corporation pursuant to the authority granted in this resolution for a period of one year from the date hereof.
5. Ronald Lowenthal is granted all such powers and is authorized to appoint any advisors and to enter into any agreement or sign any document on behalf of the Corporation as may be reasonably necessary to effectuate the repurchase of common stock of the Corporation.

DATED: JANUARY 13, 2014

/s/

Ronald Yadin Lowenthal
Executive Chairman

/s/

Nicolaas Edward Blom
President and Chief Executive Officer