

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of report (Date of earliest event reported): September 8, 2025

**Foot Locker, Inc.**

(Exact name of registrant as specified in charter)

**New York**  
(State or other jurisdiction  
of incorporation)

**1-10299**  
(Commission  
File Number)

**13-3513936**  
(IRS Employer  
Identification No.)

**330 West 34th Street, New York, New York**  
(Address of principal executive offices)

**10001**  
(Zip Code)

Registrant's telephone number, including area code: **(212) 720-3700**

N/A

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Securities registered pursuant to Section 12(b) of the Act:**

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on which Registered
Common Stock, \$0.01 par value	FL	The New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

## **Introductory Note.**

As previously announced, on May 15, 2025, Foot Locker, Inc., a New York corporation (the “Company,” “Foot Locker,” “we,” “us,” or “our”), entered into an Agreement and Plan of Merger (the “Merger Agreement”), by and among the Company, DICK’S Sporting Goods, Inc., a Delaware corporation (“DICK’S Sporting Goods”), and RJS Sub LLC, a New York limited liability company and a wholly owned subsidiary of DICK’S Sporting Goods (“Merger Sub”). Pursuant to the Merger Agreement, on September 8, 2025 (the “Closing Date”), Merger Sub merged with and into the Company (the “Merger”), with the Company surviving as a wholly owned subsidiary of DICK’S Sporting Goods.

The foregoing description of the Merger and the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement, which is included as Exhibit 2.1 to this Current Report on Form 8-K and incorporated herein by reference.

## **Item 2.01. Completion of Acquisition or Disposition of Assets.**

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated herein by reference into this Item 2.01. Pursuant to the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each share of Foot Locker common stock, par value \$0.01 per share (“Foot Locker Common Stock”), issued and outstanding immediately prior to the Effective Time (other than certain shares of Foot Locker Common Stock that were held in treasury by Foot Locker or owned by DICK’S Sporting Goods or Merger Sub or owned by direct or indirect subsidiaries of Foot Locker or DICK’S Sporting Goods) was converted into the right to receive, without interest and at the election of the holder of such share: (a) \$24.00, if an election to receive cash consideration was properly made and not properly changed, revoked or deemed revoked (or if no election was validly made) (the “Cash Consideration”) or (b) 0.1168 shares of DICK’S Sporting Goods common stock, par value \$0.01 per share (“DICK’S Sporting Goods Common Stock”), if an election to receive stock consideration was properly made and not properly changed, revoked or deemed revoked (the “Stock Consideration”) and together with the Cash Consideration, the “Merger Consideration”). The election was not subject to a minimum or maximum amount of Cash Consideration or Stock Consideration.

As of the election deadline of 5:00 p.m., Eastern Time on August 29, 2025, the final results of the election were as follows:

- Foot Locker shareholders of record of approximately 85.8% of the outstanding shares of Foot Locker Common Stock elected to receive the Stock Consideration;
  - Foot Locker shareholders of record of approximately 1.2% of the outstanding shares of Foot Locker Common Stock elected to receive the Cash Consideration; and
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- Foot Locker shareholders of record of approximately 12.9% of the outstanding shares of Foot Locker Common Stock did not make a valid election or did not deliver a valid election form prior to the election deadline, which includes approximately 4.5% of the outstanding shares of Foot Locker Common Stock owned by DICK'S Sporting Goods. Other than the shares of Foot Locker common stock owned by DICK'S Sporting Goods, which were, at the Effective Time, automatically cancelled for no consideration and ceased to exist, each non-electing Foot Locker shareholder was entitled to receive the Cash Consideration for such shares.

No fractional shares of DICK'S Sporting Goods Common Stock were issued. Instead, a Foot Locker shareholder who otherwise would have received a fractional share of DICK'S Sporting Goods Common Stock upon an election for Stock Consideration was entitled to receive a cash payment in lieu of such fractional share in an amount determined in accordance with the terms of the Merger Agreement.

Pursuant to the terms set forth in the Merger Agreement, at the Effective Time, each outstanding equity award with respect to Foot Locker Common Stock outstanding as of immediately prior to the Effective Time was treated as follows:

- Each option to purchase Foot Locker Common Stock granted under the Foot Locker 2007 Stock Incentive Plan or granted as an inducement award ("Foot Locker Option") that was unexercised, whether or not vested, and that had a per share exercise price that was less than the Cash Consideration ("In-the-Money Option") was cancelled and converted into the right to receive an amount in cash equal to (a) the number of shares of Foot Locker Common Stock subject to the Foot Locker Option as of immediately prior to the Effective Time multiplied by (b) the excess (if any) of the Cash Consideration over the per share exercise price applicable to the Foot Locker Option.
  - Each Foot Locker Option that was not an In-the-Money Option which was unexercised, whether or not vested, was cancelled for no consideration.
  - Each restricted stock unit award granted under the Foot Locker 2007 Stock Incentive Plan or granted as an inducement award ("Foot Locker RSU Award") that was held by an individual who was not a non-employee director of Foot Locker and each performance stock unit award granted under the Foot Locker 2007 Stock Incentive Plan or granted as an inducement award ("Foot Locker PSU Award") was assumed and converted into a time-based restricted stock unit award in respect of a number of shares of DICK'S Sporting Goods Common Stock equal to the product obtained by multiplying (a) the total number of shares of Foot Locker Common Stock subject to the Foot Locker RSU Award or Foot Locker PSU Award, as applicable, as of immediately prior to the Effective Time by (b) the exchange ratio (i.e., 0.1168), with any fractional shares rounded to the nearest whole share. For purposes of the immediately preceding sentence, the number of shares of Foot Locker Common Stock subject to a Foot Locker PSU Award as of immediately prior to the Effective Time was determined in accordance with the applicable award agreements.
  - Each Foot Locker RSU Award that was held by a non-employee director of Foot Locker, whether or not vested, was cancelled and converted into the right to receive an amount in cash equal to (a) the number of shares of Foot Locker Common Stock subject to the Foot Locker RSU Award as of immediately prior to the Effective Time multiplied by (b) the Cash Consideration.
  - Each deferred stock unit award granted under the Foot Locker 2007 Stock Incentive Plan ("Foot Locker DSU Award") was cancelled and converted into the right to receive, at the earliest time following the Effective Time permitted by the award terms that would not trigger any additional tax or penalty under Section 409A of the Internal Revenue Code of 1986, as amended, the Cash Consideration in respect of each share of Foot Locker Common Stock subject to the Foot Locker DSU Award as of immediately prior to the Effective Time.
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The issuance of shares of DICK'S Sporting Goods Common Stock in connection with the Merger was registered under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a registration statement on Form S-4 (File No. 333-288244) filed by DICK'S Sporting Goods with the Securities and Exchange Commission (the "SEC") and declared effective on July 10, 2025 (the "Registration Statement"). The proxy statement/prospectus included in the Registration Statement contains additional information about the Merger Agreement and the transactions contemplated thereby.

**Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.**

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated herein by reference into this Item 3.01.

Foot Locker notified the New York Stock Exchange ("NYSE") of the consummation of the Merger on the Closing Date and that each outstanding share of Foot Locker Common Stock had been converted into the right to receive the Merger Consideration. Foot Locker requested that the NYSE (i) suspend trading of Foot Locker Common Stock on the NYSE prior to the open of trading on the Closing Date, (ii) withdraw Foot Locker Common Stock from listing on the NYSE and (iii) file with the SEC a Notification of Removal from Listing and/or Registration under Section 12(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), on Form 25 with respect to Foot Locker Common Stock in order to effect the delisting of such shares from the NYSE. Such delisting will result in the deregistration of Foot Locker Common Stock under Section 12(b) of the Exchange Act. Foot Locker intends to file a Form 15 with the SEC requesting the deregistration of Foot Locker Common Stock under Section 12(g) of the Exchange Act, which will suspend Foot Locker's reporting obligations under Sections 13 and 15(d) of the Exchange Act.

**Item 3.03. Material Modification of Rights of Security Holders.**

The information set forth in the Introductory Note and Items 2.01, 3.01, 5.01 and 5.03 of this Current Report on Form 8-K is incorporated herein by reference into this Item 3.03.

As set forth under Item 2.01 of this Current Report on Form 8-K, at the Effective Time, each holder of Foot Locker Common Stock immediately prior to the Effective Time ceased to have any rights with respect thereto, except the right to receive the Merger Consideration subject to the terms and conditions set forth in the Merger Agreement.

**Item 5.01. Change of Control of Registrant.**

The information set forth in the Introductory Note and under Items 2.01 and 5.02 of this Current Report on Form 8-K is incorporated herein by reference into this Item 5.01.

At the Effective Time, as a result of the consummation of the Merger, a change in control of Foot Locker occurred and Foot Locker became a wholly-owned subsidiary of DICK'S Sporting Goods.

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

The information set forth under Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference into this Item 5.02.

Pursuant to the Merger Agreement, at the Effective Time, (i) each member of the Foot Locker board of directors as of immediately prior to the Effective Time resigned as a director of the Company and (ii) Mary N. Dillon, Franklin R. Bracken, Michael A. Baughn, Elliott D. Rodgers and Cynthia Carlisle ceased to be officers of Foot Locker.

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**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

The information set forth in Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference into this Item 5.03.

Pursuant to the Merger Agreement, at and effective as of the Effective Time, the certificate of incorporation of Foot Locker was amended as set forth in the certificate of merger filed in connection with the Merger (the "Certificate of Merger") and the bylaws of Foot Locker were amended and restated in their entirety as set forth in the Merger Agreement (the "Amended Bylaws"). Copies of the Certificate of Merger and Amended Bylaws of Foot Locker are filed as Exhibits 3.1 and 3.2, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

**Item 8.01 Other Events.**

In connection with the consummation of the Merger, on September 8, 2025, the Company repaid all outstanding amounts under, and terminated, its Credit Agreement, dated as of May 19, 2016 (as amended, restated, amended and restated, modified, extended, replaced, supplemented or otherwise modified from time to time, the "Existing Revolving Credit Agreement"), among the Company, the guarantors party thereto, the lenders and other parties party thereto and Wells Fargo, National Association, as administrative agent and collateral agent. The Existing Revolving Credit Agreement provided for a \$600 million revolving credit facility with an \$80 million letter of credit sublimit. Certain letters of credit and other bank products and cash management services previously secured by the collateral under the Existing Revolving Credit Agreement will remain outstanding and be assumed on an unsecured basis by DICK'S Sporting Goods.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
<a href="#">2.1</a>	<a href="#">Agreement and Plan of Merger, dated as of May 15, 2025, by and among Foot Locker, Inc., DICK'S Sporting Goods, Inc. and RJS Sub LLC (incorporated by reference to Exhibit 2.1 to Foot Locker, Inc.'s Current Report on Form 8-K, filed with the SEC on May 15, 2025 (Film No. 25955790))*</a>
<a href="#">3.1</a>	<a href="#">Certificate of Merger of RJS Sub LLC into Foot Locker, Inc., effective as of September 8, 2025.</a>
<a href="#">3.2</a>	<a href="#">Amended and Restated Bylaws of Foot Locker, Inc., effective as of September 8, 2025.</a>
104	Cover Page Interactive Data File (formatted as Inline XBRL).

\* Certain schedules and exhibits have been omitted in reliance on Instruction 4 of Item 1.01 of Form 8-K and Item 601(a)(5) of Regulation S-K. The Company agrees to furnish supplementally a copy of any omitted schedule to the SEC upon request; provided, however, that the Company may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedules or exhibits so furnished.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**FOOT LOCKER, INC.**

By: /s/ Erin Conway

Name: Erin Conway

Title: Vice President, Deputy General Counsel and Corporate Secretary

Date: September 8, 2025

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**CERTIFICATE OF MERGER**

**OF**

**RJS SUB LLC**

(a New York limited liability company)

**INTO**

**FOOT LOCKER, INC.**

(a New York corporation)

UNDER SECTION 904-A OF THE BUSINESS CORPORATION LAW

The undersigned, Edward W. Stack, the Executive Chairman of DICK’S Sporting Goods, Inc., the sole member of RJS Sub LLC, a New York limited liability company, and Erin Conway, the Vice President, Deputy General Counsel & Corporate Secretary of Foot Locker, Inc., a New York corporation, hereby certify:

1. The name and jurisdiction of formation or organization of each constituent entity that is to merge is:

<u>ENTITY NAME</u>	<u>FORMATION JURISDICTION</u>
RJS Sub LLC	New York
Foot Locker, Inc. (originally formed as “Woolworth Corporation”)	New York

2. The Articles of Organization of RJS Sub LLC (“Merger Sub”) were filed with the Department of State of the State of New York on May 14, 2025.

3. The Certificate of Incorporation of Foot Locker, Inc. was filed with the Department of State of the State of New York on April 7, 1989 under the name of Woolworth Corporation.

4. The Agreement and Plan of Merger setting forth the terms and conditions of the merger (the “Agreement and Plan of Merger”) has been approved and executed by each constituent entity that is to merge.

5. The name of the domestic corporation which is to be the surviving corporation is Foot Locker, Inc. (the “Surviving Corporation”).

6. Upon completion of the merger, the Certificate of Incorporation of the Surviving Corporation shall be amended to change the county in which the office of the Surviving Corporation is to be located, to reduce the aggregate number of authorized shares of common stock for the Surviving Corporation from 500,000,000 shares with a par value of \$0.01 to 100 shares with a par value of \$0.01, to eliminate all series and classes of preferred stock of the Surviving Corporation, to change the address for where the Secretary of State shall forward process against the Surviving Corporation, to designate a registered agent, to eliminate requirements for fixed terms for directors, limitations regarding the removal of directors, and certain reelection procedures, to eliminate procedural requirements for meetings and actions of shareholders and the Board of Directors of the Surviving Corporation, to permit shareholder action by written consent, to clarify the authority of the Board of Directors of the Surviving Corporation to adopt and amend the bylaws of the Surviving Corporation, and to eliminate all legacy provisions regarding preferred stock, business combinations, and other public company governance matters. To accomplish said amendments, the following articles of the Certificate of Incorporation of the Surviving Corporation are hereby amended as follows:

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Article THIRD of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“THIRD. The office of the Corporation is to be located in Albany County, State of New York.”

Article FOURTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“FOURTH. The Corporation is authorized to issue one class of capital stock to be designated Common Stock. The total number of shares of Common Stock authorized to be issued is one hundred (100) shares with a par value of \$0.01 per share.”

Article FIFTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“FIFTH. The Secretary of State of New York is designated as the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is: Corporation Service Company, 80 State Street, Albany, New York 12207.”

Article SIXTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“SIXTH. The name and address of the registered agent which is to be the agent of the Corporation upon whom process against it may be served, are Corporation Service Company, 80 State Street, Albany, New York 12207.”

Article SEVENTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“SEVENTH. The business and affairs of the Corporation shall be managed by, or under the direction of, a Board of Directors. The Bylaws of the Corporation may fix and alter, or provide the manner for fixing and altering, the number of directors constituting the whole Board. Unless and except to the extent that the Bylaws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot, and directors need not be shareholders of the Corporation.”

Article EIGHTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“EIGHTH. In furtherance and not in limitation of the powers conferred by law, the Board is expressly authorized and empowered to make, alter and repeal the Bylaws of the Corporation by a majority vote at any regular or special meeting of the Board or by written consent, subject to the power of the shareholders of the Corporation to alter or repeal any Bylaws made by the Board.”

Article NINTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“NINTH. Any action required or permitted to be taken at any annual or special meeting of shareholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing.”

Article TENTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“TENTH. The Corporation reserves the right at any time and from time to time to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, and any other provisions authorized by the laws of the State of New York at the time in force that may be added or inserted, in the manner now or hereafter prescribed by law, and all rights, preferences and privileges of whatsoever nature conferred upon shareholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article.”

Article ELEVENTH of the Certificate of Incorporation of the Surviving Corporation is hereby amended to read, in its entirety, as follows:

“ELEVENTH. No director shall be personally liable to the Corporation or any of its shareholders for monetary damages for breach of fiduciary duty as a director, except for liability if a judgment or other final adjudication adverse to such director establishes that such director’s acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that such director personally gained in fact a financial profit or other advantage to which such director was not legally entitled or that such director’s acts violated Section 719 of the New York Business Corporation law. Any repeal or modification of this Article XI by the shareholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

“The Corporation shall, to the fullest extent now or hereafter authorized or permitted by applicable law, indemnify any person who is or was made, or threatened to be made, a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, whether involving any actual or alleged breach of duty, neglect or error, any accountability, or any actual or alleged misstatement, misleading statement or other act or omission and whether brought or threatened in any court or administrative or legislative body or agency, including an action by, or in the right of, the Corporation to procure a judgment in its favor and an action by, or in the right of, any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director or officer of the Corporation is serving, has served or has agreed to serve in any capacity at the request of the Corporation, by reason of the fact that he, his testator or intestate, is or was or has agreed to become a director or officer of the Corporation, or is or was serving or has agreed to serve such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid or to be paid in settlement, and expenses (including attorneys’ fees, costs and charges) incurred as a result of such action, suit or proceeding, or appeal therein. The Corporation may indemnify any person (including a person entitled to indemnification pursuant to the previous sentence) to whom the Corporation is permitted to provide indemnification or the advancement of expenses to the fullest extent now or hereafter permitted by applicable law, whether pursuant to rights granted pursuant to, or provided by, the New York Business Corporation Law, or any other law, or other rights created by (A) a resolution of shareholders, (B) a resolution of directors, or (C) an agreement providing for such indemnification, it being expressly intended that this Article XI authorizes the creation of other rights in any such manner. The rights to indemnification set forth in this Article XI shall not be exclusive of any other rights to which any person may now or hereafter be entitled under any statute, provision of this Certificate of Incorporation, bylaws, agreement, contract, resolution, vote of shareholders or otherwise.

“Any repeal or modification of this Article XI shall not adversely affect any right or protection of a director of the Corporation existing hereunder with respect to any act or omission occurring prior to such repeal or modification.”

\* \* \*

7. The merger shall have an effective date of September 8, 2025.
8. The merger is permitted by the jurisdiction of incorporation or organization of each constituent entity that is to merge and is in compliance therewith.
9. The Agreement and Plan of Merger is on file at the Surviving Corporation’s place of business located at 330 West 34th Street, New York, New York 10001.

*[Signature Page Follows]*

**FOOT LOCKER, INC.,  
Surviving Corporation**

By: /s/ Erin Conway

Name: Erin Conway

Title: Vice President, Deputy General Counsel & Corporate Secretary

[Signature Page to NY Certificate of Merger of Foot Locker, Inc.  
and RJS Sub LLC]

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**RJS SUB LLC**

By: DICK'S Sporting Goods, Inc.,  
a Delaware corporation, its sole member

By: /s/ Edward W. Stack

Name: Edward W. Stack

Title: Executive Chairman

[Signature Page to NY Certificate of Merger of Foot Locker, Inc.  
and RJS Sub LLC]

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**AMENDED AND RESTATED**

**BYLAWS  
OF  
FOOT LOCKER, INC.**

Dated as of September 8, 2025

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**ARTICLE I**

**OFFICES**

SECTION 1.01 REGISTERED OFFICE. The registered office of Foot Locker, Inc. (the “*Corporation*”) in the State of New York shall be established and maintained at 80 State Street, Albany, New York 12207, and the name of the registered agent of the Corporation in the State of New York at such address is Corporation Service Company.

SECTION 1.02 OTHER OFFICES. The Corporation may have other offices, either within or without the State of New York, at such place or places as the Board of Directors may from time to time select or the business of the Corporation may require.

**ARTICLE II**

**MEETINGS OF SHAREHOLDERS**

SECTION 2.01 ANNUAL MEETINGS. Annual meetings of shareholders for the election of directors, and for such other business as may be stated in the notice of the meeting, shall be held at such place, either within or without the State of New York, and at such time and date as the Board of Directors, by resolution, shall determine and as set forth in the notice of the meeting. At each annual meeting, the shareholders entitled to vote shall elect a Board of Directors and they may transact such other corporate business as shall be stated in the notice of the meeting.

SECTION 2.02 SPECIAL MEETINGS. Special meetings of the shareholders for any purpose or purposes may be called by the Board of Directors, the Chairman of the Board of Directors, if any, the President, the Corporate Secretary or any Vice President.

SECTION 2.03 VOTING. Each shareholder entitled to vote in accordance with the terms of the Certificate of Incorporation of the Corporation and these Bylaws may vote in person or by proxy, but no proxy shall be voted after three years from its date unless such proxy provides for a longer period. Except as otherwise provided by the Certificate of Incorporation, these Bylaws or the laws of the State of New York, elections for directors shall be decided by a plurality of the votes cast, and all other questions shall be decided by an affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter.

SECTION 2.04 SHAREHOLDERS' LIST. A complete list of the shareholders entitled to vote at the meeting, arranged in alphabetical order, with the address of each, and the number of shares held by each, shall be open to the examination of any shareholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any shareholder who is entitled to be present at such meeting.

SECTION 2.05 QUORUM. Except as otherwise required by law, by the Certificate of Incorporation of the Corporation or by these Bylaws, the presence, in person or by proxy, of shareholders holding shares constituting a majority of the voting power of the Corporation shall constitute a quorum at all meetings of the shareholders. In case a quorum shall not be present at any meeting, a majority in interest of the shareholders entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the requisite amount of stock entitled to vote shall be present. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted that might have been transacted at the meeting as originally noticed; but only those shareholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof.

SECTION 2.06 NOTICE OF MEETINGS. Written notice, stating the place, date and time of the meeting, and the general nature of the business to be considered, shall be given to each shareholder entitled to vote thereat, at his or her address as it appears on the records of the Corporation, not less than ten (10) nor more than sixty (60) days before the date of the meeting. No business other than that stated in the notice shall be transacted at any meeting without the unanimous consent of all the shareholders entitled to vote thereat.

SECTION 2.07 ACTION WITHOUT MEETING. Unless otherwise provided by the Certificate of Incorporation of the Corporation, any action required or permitted to be taken at any annual or special meeting of shareholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing.

## ARTICLE III

### DIRECTORS

SECTION 3.01 NUMBER AND TERM. The business and affairs of the Corporation shall be managed under the direction of a Board of Directors. Except as otherwise provided by the laws of the State of New York, the Certificate of Incorporation or these Bylaws, the Board of Directors shall consist of one or more members. The number of directors shall initially be three, and may thereafter be fixed from time to time by resolution of the Board of Directors. Directors shall be elected at the annual meeting of shareholders and each director shall be elected to serve until his or her successor is elected and qualified or until his or her earlier resignation or removal, except as otherwise provided herein or required by the laws of the State of New York. A director need not be a shareholder, resident of the State of New York or citizen of the United States.

SECTION 3.02 RESIGNATIONS. Any director may resign at any time. Such resignation shall be made in writing, and shall take effect at the time specified therein, and if no time be specified, at the time of its receipt by the Chairman of the Board of Directors, the President or the Corporate Secretary. The acceptance of a resignation shall not be necessary to make it effective.

SECTION 3.03 VACANCIES. If the office of any director becomes vacant, the remaining directors in office, though more or less than a quorum, by a majority vote, may appoint any qualified person to fill such vacancy, who shall hold office for the unexpired term and until his or her successor is elected and qualified. If the office of any director becomes vacant and there are no remaining directors, the shareholders, by the affirmative vote of the holders of shares constituting a majority of the voting power of the Corporation, at a special meeting called for such purpose, may appoint any qualified person to fill such vacancy.

SECTION 3.04 NEWLY CREATED DIRECTORSHIPS. If the number of directors is increased by action of the Board of Directors or otherwise, then the additional directors may be elected in the manner provided above for the filling of vacancies in the Board of Directors.

SECTION 3.05 REMOVAL. Except as hereinafter provided, any director or directors may be removed either for or without cause at any time by the affirmative vote of the holders of a majority of the voting power entitled to vote for the election of directors, and the vacancy thus created may be filled by the affirmative vote of holders of shares constituting a majority of the voting power of the Corporation.

SECTION 3.06 COMMITTEES. The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board of Directors, designate one or more committees, each committee to consist of one or more directors of the Corporation.

Any such committee, to the extent provided in the resolution of the Board of Directors, or in these Bylaws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation to the extent permitted by the laws of the State of New York, and may authorize the seal of the Corporation (if any) to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

SECTION 3.07 MEETINGS. The newly elected directors may hold their first meeting for the purpose of organization and the transaction of business, if a quorum be present, immediately after the annual meeting of the shareholders; or the time and place of such meeting may be fixed by consent of all the directors.

Regular meetings of the Board of Directors may be held without notice at such places and times as shall be determined from time to time by resolution of the Board of Directors.

Special meetings of the Board of Directors may be called by the Chairman of the Board of Directors, if any, or the President or by the Corporate Secretary on the written request of any director, on at least one day's notice to each director, or such shorter period of time before the meeting as will nonetheless be sufficient for the convenient assembly of the directors so notified (except that notice to any director may be waived in writing by such director or shall be deemed waived by such director's attendance at a meeting, except when such director attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not called or convened in accordance with these Bylaws) and shall be held at such place or places as may be determined by the Board of Directors, or as shall be stated in the call of the meeting.

Unless otherwise restricted by the Certificate of Incorporation of the Corporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in any meeting of the Board of Directors or any committee thereof by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

SECTION 3.08 QUORUM. A majority of the directors shall constitute a quorum for the transaction of business. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum is obtained, and no further notice thereof need be given other than by announcement at the meeting which shall be so adjourned. The vote of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the Certificate of Incorporation of the Corporation or these Bylaws shall require the vote of a greater number.

SECTION 3.09 COMPENSATION. Directors shall not receive any stated salary for their services as directors or as members of committees, but by resolution of the Board of Directors a fixed fee and expenses of attendance may be allowed for attendance at each meeting. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity as an officer, agent or otherwise, and receiving compensation therefor.

SECTION 3.10 ACTION WITHOUT MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if a written consent thereto is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board of Directors or such committee.

#### ARTICLE IV

##### OFFICERS

SECTION 4.01 OFFICERS. The officers of the Corporation shall be chosen by the Board of Directors. There shall be a President, a Treasurer and a Corporate Secretary, all of whom shall be elected by the Board of Directors and shall hold office until their successors are duly elected and qualified. In addition, the Board of Directors may elect such Vice Presidents, Assistant Corporate Secretaries and Assistant Treasurers as it may deem proper. The Board of Directors may appoint such other officers and agents as it may deem advisable, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors. Any number of offices may be held by the same person.

SECTION 4.02 CHAIRMAN OF THE BOARD. The Chairman of the Board of Directors, if any, shall preside at all meetings of the Board of Directors and shall have and perform such other duties as may be assigned to him or her by the Board of Directors. The Board of Directors, in its discretion, may designate the Chairman of the Board as an officer of the Corporation. If the Chairman of the Board of Directors is an officer, the Chairman shall have such other powers and perform such other duties (in addition to being Chairman of the Board of Directors) as may be assigned from time to time by the Board of Directors.

SECTION 4.03 PRESIDENT. Unless the Board of Directors otherwise determines, the President shall be the chief executive officer and head of the Corporation. Unless there is a Chairman of the Board of Directors, the President shall preside at all meetings of directors and shareholders. Under the supervision of the Board of Directors, the President shall have the general powers and duties of supervision and management of the Corporation's business and affairs, subject, however, to the right of the Board of Directors to confer any specific power, except as may be by statute exclusively conferred on the President, upon any other officer or officers of the Corporation. The President shall perform and do all acts and things incident to the position of President and such other duties as may be assigned to him from time to time by the Board of Directors.

SECTION 4.04 VICE PRESIDENTS. Each Vice President shall have such powers and shall perform such duties as shall be assigned to him or her by the Board of Directors or by the President.

SECTION 4.05 TREASURER. The Treasurer shall be the Chief Financial Officer of the Corporation. He or she shall have the custody of all the funds and securities of the Corporation and shall keep full and accurate account of receipts and disbursements in books belonging to the Corporation. He or she shall deposit all moneys and other valuables in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the Corporation as may be ordered by the Board of Directors, the President or other officers or agents to whom the Board of Directors may delegate such authority, taking proper vouchers for such disbursements. He or she shall render to the Board of Directors at the regular meetings of the Board of Directors, or whenever it may request, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, he or she shall give the Corporation a bond for the faithful discharge of his or her duties in such amount and with such surety as the Board of Directors shall prescribe.

SECTION 4.06 CORPORATE SECRETARY. The Corporate Secretary shall give, or cause to be given, notice of all meetings of shareholders and of the Board of Directors and all other notices required by law or by these Bylaws, and in case of his or her absence or refusal or neglect so to do, any such notice may be given by any person thereunto directed by the Chairman of the Board of Directors or the President, or by the Board of Directors, upon whose request the meeting is called as provided in these Bylaws. He or she shall record all the proceedings of the meetings of the Board of Directors, any committees thereof and the shareholders of the Corporation in a book to be kept for that purpose, and shall perform such other duties as may be assigned to him or her by the Board of Directors, the Chairman of the Board of Directors or the President. He or she shall have the custody of the seal of the Corporation (if any) and shall affix the same to any instruments requiring it, when authorized by the Board of Directors, the Chairman of the Board of Directors or the President, and attest to the same.

SECTION 4.07 ASSISTANT TREASURERS AND ASSISTANT CORPORATE SECRETARIES. Assistant Treasurers and Assistant Corporate Secretaries, if any, shall be elected and shall have such powers and shall perform such duties as shall be assigned to them, respectively, by the Board of Directors.

## ARTICLE V

### MISCELLANEOUS

SECTION 5.01 CERTIFICATES OF STOCK. Shares of the Corporation's stock may be certificated or uncertificated. Any or all of the signatures on any certificated shares may be by facsimile. In case any officer, transfer agent or registrar who shall have signed, or whose facsimile signature or signatures shall have been used on, any such certificate or certificates shall cease to be an officer, transfer agent or registrar of the Corporation, whether because of death, resignation or otherwise, before such certificate or certificates shall have been delivered by the Corporation, such certificate or certificates may nevertheless be adopted by the Corporation and be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature shall have been used thereon had not ceased to be an officer, transfer agent or registrar of the Corporation. Certificates of stock of the Corporation, if any, shall be of such form and device as the Board of Directors may from time to time determine.

SECTION 5.02 LOST CERTIFICATES. A new certificate of stock may be issued in the place of any certificate theretofore issued by the Corporation, alleged to have been lost or destroyed, and the Board of Directors may, in its discretion, require the owner of the lost or destroyed certificate, or such owner's legal representatives, to give the Corporation a bond, in such sum as they may direct, not exceeding double the value of the stock, to indemnify the Corporation against any claim that may be made against it on account of the alleged loss of any such certificate, or the issuance of any such new certificate.

SECTION 5.03 TRANSFER OF SHARES. Subject to any transfer restrictions then in force, the shares of stock of the Corporation shall be transferable only upon its books by the holders thereof in person or by their duly authorized attorneys or legal representatives, and upon such transfer the old certificates, if such certificates have been issued, shall be surrendered to the Corporation by the delivery thereof to the person in charge of the stock and transfer books and ledgers, or to such other person as the Board of Directors may designate, by whom they shall be cancelled, and new certificates, if any, shall thereupon be issued. A record shall be made of each transfer and whenever a transfer shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer. The Corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person whether or not it shall have express or other notice thereof, except as expressly provided by the laws of the State of New York.

SECTION 5.04 SHAREHOLDERS RECORD DATE. In order that the Corporation may determine the shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or ex-change of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and which record date: (1) in the case of determination of shareholders entitled to vote at any meeting of shareholders or adjournment thereof, shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting; (2) in the case of determination of shareholders entitled to express consent to corporate action in writing without a meeting, shall not be more than ten (10) days from the date upon which the resolution fixing the record date is adopted by the Board of Directors; and (3) in the case of any other action, shall not be more than sixty (60) days prior to such other action. If no record date is fixed: (A) the record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the day next preceding the day on which notice is given, or, if no notice is given, the day on which the meeting is held; (B) the record date for determining shareholders entitled to express consent to corporate action in writing without a meeting when no prior action of the Board of Directors is required by law, shall be the first day on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law, or, if prior action by the Board of Directors is required by law, shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action; and (C) the record date for determining shareholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A de-termination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

SECTION 5.05 DIVIDENDS. Subject to the provisions of the Certificate of Incorporation of the Corporation, the Board of Directors may, out of funds legally available therefor at any regular or special meeting, declare dividends upon stock of the Corporation as and when they deem appropriate. Before declaring any dividend there may be set apart out of any funds of the Corporation available for dividends, such sum or sums as the Board of Directors from time to time in their discretion deem proper for working capital or as a reserve fund to meet contingencies or for equalizing dividends or for such other purposes as the Board of Directors shall deem conducive to the interests of the Corporation.

SECTION 5.06 SEAL. The Corporation may have a corporate seal in such form as shall be determined by resolution of the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise imprinted upon the subject document or paper.

SECTION 5.07 FISCAL YEAR. The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

SECTION 5.08 CHECKS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, or agent or agents, of the Corporation, and in such manner as shall be determined from time to time by resolution of the Board of Directors.

SECTION 5.09 NOTICE AND WAIVER OF NOTICE. Whenever any notice is required to be given under these Bylaws, personal notice is not required unless expressly so stated, and any notice so required shall be deemed to be sufficient if given by depositing the same in the United States mail, postage prepaid, addressed to the person entitled thereto at his or her address as it appears on the records of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. Shareholders not entitled to vote shall not be entitled to receive notice of any meetings except as otherwise provided by law. Whenever any notice is required to be given under the provisions of any law, or under the provisions of the Certificate of Incorporation of the Corporation or of these Bylaws, a waiver thereof, in writing and signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to such required notice. In addition, the attendance of any shareholder at a meeting, whether in person or by proxy, shall constitute a waiver of notice by such shareholder, except when a shareholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

## ARTICLE VI

### AMENDMENTS

These Bylaws may be altered, amended or repealed at any annual meeting of the shareholders (or at any special meeting thereof if notice of such proposed alteration, amendment or repeal to be considered is contained in the notice of such special meeting) by the affirmative vote of the holders of shares constituting a majority of the voting power of the Corporation. Except as otherwise provided in the Certificate of Incorporation of the Corporation, the Board of Directors may by majority vote of those present at any such meeting at which a quorum is present alter, amend or repeal these Bylaws, or enact such other Bylaws as in their judgment may be advisable for the regulation and conduct of the affairs of the Corporation.

## ARTICLE VII

### INDEMNIFICATION OF DIRECTORS, OFFICERS, AND OTHERS

SECTION 7.01 INDEMNIFICATION BY THE CORPORATION. The Corporation shall, to the fullest extent permitted by applicable law, indemnify any person who is or was made, or threatened to be made, a party to any action or proceeding, whether civil or criminal, whether involving any actual or alleged breach of duty, neglect or error, any accountability, or any actual or alleged misstatement, misleading statement or other act or omission and whether brought or threatened in any court or administrative or legislative body or agency, including an action by, or in the right of, the Corporation to procure a judgment in its favor and an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director or officer of the Corporation is serving or served in any capacity at the request of the Corporation, by reason of the fact that such director or officer, such director or officer's testator or intestate, is or was a director or officer of the Corporation, or is serving or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement, and expenses (including attorneys' fees, costs and charges) incurred as a result of such action or proceeding, or appeal therein; provided, however, that no indemnification shall be provided to any such person who is a director or officer of the Corporation if a judgment or other final adjudication adverse to such director or officer establishes that (a) such director or officer's acts were committed in bad faith or were the result of active and deliberate dishonesty and, in either case, were material to the cause of action so adjudicated, or (b) such director or officer personally gained in fact a financial profit or other advantage to which such director or officer was not legally entitled.

SECTION 7.02 The Corporation may indemnify any person (including a person entitled to indemnification pursuant to Section 7.01) to whom the Corporation is permitted to provide indemnification or the advancement of expenses to the fullest extent permitted by applicable law, whether pursuant to rights granted pursuant to, or provided by, the New York Business Corporation Law or other rights created by (a) a resolution of shareholders, (b) a resolution of directors, or (c) an agreement providing for such indemnification, it being expressly in-tended that this Article VII authorizes the creation of other rights in any such manner.

SECTION 7.03 The Corporation shall, from time to time, reimburse or advance to any person referred to in Section 7.01 the funds necessary for payment of expenses incurred in connection with any action or proceeding referred to in Section 7.01, upon receipt of a written undertaking by or on behalf of such person to repay such amount(s) if a judgment or other final adjudication adverse to the director or officer establishes that (a) the person's acts were committed in bad faith or were the result of active and deliberate dishonesty and, in either case, were material to the cause of action so adjudicated, or (b) the person personally gained in fact a financial profit or other advantage to which the person was not legally entitled.

SECTION 7.04 Without limitation of any indemnification provided by Section 1, any director or officer of the Corporation serving (a) another corporation, partnership, joint venture or trust of which 20 percent or more of the voting power or residual economic interest is held, directly or indirectly, by the Corporation, or (b) any employee benefit plan of the Corporation or any entity referred to in clause (a), in any capacity shall be deemed to be doing so at the request of the Corporation.

SECTION 7.05 Any person entitled to be indemnified or to the reimbursement or advancement of expenses as a matter of right pursuant to this Article IX may elect to have the right to indemnification (or advancement of expenses) interpreted on the basis of the applicable law in effect at the time of the occurrence of the event or events giving rise to the action or proceeding, to the extent permitted by law, or on the basis of the applicable law in effect at the time indemnification is sought.

SECTION 7.06 The right to be indemnified or to the reimbursement or advancement of expenses pursuant to Sections 7.01 or 7.03 of this Article VII or a resolution authorized pursuant to Section 7.02 of this Article VII (a) is a contract right pursuant to which the person entitled thereto may bring suit as if the provisions hereof (or of any such resolution) were set forth in a separate written contract between the Corporation and such person, (b) is intended to be retroactive and shall, to the extent permitted by law, be available with respect to events occurring prior to the adoption hereof, and (c) shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto. The Corporation shall not be obligated under this Article VII (including any resolution or agreement authorized by Section 7.02 of this Article VII) to make any payment hereunder (or under any such resolution or agreement) to the extent the person seeking indemnification hereunder (or under any such resolution or agreement) has actually received payment (under any insurance policy, resolution, agreement or otherwise) of the amounts otherwise indemnifiable hereunder (or under any such resolution or agreement).

SECTION 7.07 If a request to be indemnified or for the reimbursement or advancement of expenses pursuant to Sections 7.01 or 7.03 of this Article VII is not paid in full by the Corporation within 30 days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled also to be paid the expenses of prosecuting such claim. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel or shareholders) to have made a determination prior to the commencement of such action that indemnification of, or reimbursement or advancement of expenses to, the claimant is proper in the circumstances, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel or shareholders) that the claimant is not entitled to indemnification or to the reimbursement or advancement of expenses, shall be a defense to the action or create a presumption that the claimant is not so entitled.