

**BY-LAWS
OF
ITAFOS INC.**

Effective as of July 1, 2021

**ARTICLE I
OFFICES**

SECTION 1. Registered Office. The registered office of the Corporation within the State of Delaware shall be as set forth in the Corporation's Certificate of Incorporation (the "Certificate of Incorporation"), which at the time of adoption of these By-Laws is: Incorporating Services, Ltd., 3500 South DuPont Highway, Dover, DE 19901, Kent County.

SECTION 2. Other Offices. The Corporation may also have an office or offices other than the registered office at such place or places, either within or without the State of Delaware, as the Board of Directors shall from time to time determine or the business of the Corporation may require.

SECTION 3. Books. The Corporation may keep its books within or without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

**ARTICLE II
MEETINGS OF STOCKHOLDERS**

SECTION 1. Place of Meetings. Meetings of the stockholders of the Corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law ("DGCL"). If authorized by the Board of Directors, in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, stockholders and proxy holders not physically present at a meeting of stockholders may by means of remote communication, to the fullest extent permitted by applicable law: (a) participate in a meeting of stockholders, and (b) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication.

SECTION 2. Annual Meeting. The annual meeting of stockholders shall be held at such date and time as the Board of Directors designates from time to time and states in the notice of meeting.

SECTION 3. Special Meetings. Special meetings of stockholders may be called at any time only by the Board of Directors pursuant to a resolution adopted by the affirmative vote of a majority of the Board of Directors then in office or by the Chairman of the Board of Directors.

SECTION 4. Notice of Meetings. The Corporation shall give written notice of each annual and special meeting of stockholders, not less than ten nor more than 60 days before the date of the meeting, except as the DGCL or the Certificate of Incorporation requires from time to time, to each stockholder of record entitled to vote at the meeting (as of the record date for determining the stockholders entitled to notice of the meeting) at such address as appears on the records of the Corporation stating the following:

- (a) the date, place, if any, and time of the meeting;
- (b) the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at the meeting;
- (c) the record date for purposes of determining the stockholders entitled to vote at the meeting (if the date is different from the record date for determining the stockholders entitled to notice of the meeting); and
- (d) in the case of a special meeting, the purpose or purposes for which the meeting is called.

Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice; provided, however, that nothing herein shall prohibit the Board of Directors from submitting matters to the stockholders at any special meeting requested by stockholders.

SECTION 5. List of Stockholders. A complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order (for each class of stock), showing the address of and the number of shares registered in the name of each stockholder shall be open to the examination of any such stockholder for a period of at least ten days prior to the meeting in the manner provided by law; *provided* that if the record date for determining the stockholders entitled to vote at the meeting is less than ten days before the date of the meeting, the list shall initially reflect the stockholders entitled to vote as of the tenth day before the meeting date (and shall be updated to reflect the stockholders entitled to vote as of the record date promptly after the record date). Any stockholder may examine the list during the whole time of the meeting as law provides. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares that each of them holds. If the meeting is held solely by means of remote communication, the list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by applicable law and the information required to access the list shall be provided to stockholders in accordance with applicable law.

SECTION 6. Quorum, Adjournments.

- (a) Unless otherwise required by law, the Certificate of Incorporation or these by-laws, at each meeting of the stockholders, a majority in voting power of the shares of the Corporation entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the chair of the meeting or the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have power, by the affirmative vote of a majority in voting power thereof, to adjourn the meeting from time to time, in the manner provided in (b) below, until a quorum shall be present or represented. A quorum, once established, shall not be broken by the subsequent withdrawal of enough votes to leave less than a quorum. At any such adjourned meeting at which there is a quorum, any business may be transacted that might have been transacted at the meeting originally called.
- (b) Any meeting of the stockholders, annual or special, may be adjourned from time to time to reconvene at the same or some other place, if any, and notice need not be given of any such adjourned meeting if the time, place, if any, thereof and the means of remote communication, if any, are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date is fixed for stockholders entitled to vote at the adjourned meeting, the Board of Directors shall fix a new record date for notice of the adjourned meeting and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at the adjourned meeting as of the record date fixed for notice of the adjourned meeting.

SECTION 7. Organization. At each meeting of stockholders, the Chairman of the Board of Directors, or such person as the Chairman of the Board of Directors may have designated, or, in his or her absence, the Chief Executive Officer or, in his or her absence, such person as the Board of Directors may have designated shall act as chairman of the meeting. The Secretary or, in his absence or inability to act, the person whom the chairman of the meeting shall appoint secretary of the meeting shall act as secretary of the meeting and keep the minutes of the meeting.

SECTION 8. Conduct of Business. The chairman of any meeting of stockholders shall determine the order of business and the rules, regulations and procedures of the meeting. These rules, regulations or procedures may include, without limitation, the following:

- (a) regulation of the manner of voting;
- (b) the establishment of an agenda or order of business for the meeting;

- (c) rules and procedures for maintaining order at the meeting and the safety of those present;
- (d) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman shall determine;
- (e) restrictions on entry to the meeting after the time fixed for the commencement of the meeting; and
- (f) limitations on the time allotted to questions or comments by participants.

The chairman shall have the power to adjourn the meeting to another place, if any, date and time. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

SECTION 9. Voting.

- (a) Except as DGCL or the Certificate of Incorporation otherwise provide, at all meetings of the stockholders, each stockholder entitled to vote under the Certificate of Incorporation and these By-Laws shall be entitled to one vote, in person or by proxy, for each share of voting stock that the stockholder of record on the record date owns for purposes of determining the stockholders entitled to vote at the meeting. Each stockholder entitled to vote at any meeting of stockholders may authorize another person or persons to act for him by a proxy that is in writing or transmitted as law permits, including, without limitation, by means of electronic transmission that the stockholder or the stockholder's attorney-in-fact executes or authorizes, but no proxy shall be voted after three years from its date, unless the proxy provides for a longer period. Any such proxy shall be delivered to the secretary of the meeting at or until the time designated in the order of business for so delivering such proxies. Any proxy transmitted electronically shall set forth information from which it can be determined by the secretary of the meeting that the stockholder authorized the electronic transmission.
- (b) Subject to the immediately succeeding sentence, when a quorum is present at any meeting, the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the stockholders, except as otherwise required by DGCL, the Certificate of Incorporation, these By-Laws or other the applicable rules and regulations. Subject to the rights of the holders of any series of preferred stock to elect additional directors under specific circumstances, if any, at any meeting of stockholders to, inter alia, elect directors for which notice was sent to stockholders pursuant to Section 4 of this Article II, directors shall be elected by a plurality of the votes cast at a meeting of stockholders. Unless applicable law requires, or the chairman of the meeting determines it to be advisable, the vote on any question need not be by ballot. On a vote by ballot, each ballot shall be

signed by the stockholder voting, or by his proxy, if there be a proxy, and shall state the number of shares voted and the number of votes to which each share is entitled.

SECTION 10. Notice of Stockholder Business and Nominations.

(a) Annual Meetings of Stockholders.

(i) Nominations of persons for election to the Board of Directors and the proposal of other business that the stockholders should consider may be made at an annual meeting of stockholders:

(A) pursuant to the Corporation's proxy materials and notice with respect to the meeting;

(B) by or at the direction of the Board of Directors; or

(C) by any stockholder of the Corporation who:

(1) was a stockholder of record at the time of giving of notice provided for in this Section 10(a) of this Article II;

(2) at the time of the annual meeting, is entitled to vote at the meeting; and

(3) complies with the notice procedures set forth in this Section 10(a) of this Article II as to such business or nomination.

Section 10(a)(i)(C) of this Article II shall be the exclusive means for a stockholder to make nominations or submit other business (other than matters properly brought in compliance with applicable laws) before an annual meeting of stockholders.

(ii) Without qualification, for a stockholder to properly bring any nominations or business before an annual meeting pursuant to Section 10(a)(i)(C) of this Article II,

(A) the stockholder must have given timely notice of those nominations or business in writing to the Secretary;

(B) such other business must otherwise be a proper matter for stockholder action; and

(C) the record stockholder and the beneficial owner, if any, on whose behalf the proposal or nomination is made, must have acted in accordance with the representations set forth in the Solicitation Statement that these By-Laws require.

To be timely, a stockholder must deliver the stockholder's notice to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day and not later than the close of business of the 90th day prior to the first anniversary of the preceding year's annual meeting; *provided*, subject to the last sentence of this Section 10(a)(ii) of this Article II, that:

- (1) if the date of the annual meeting is more than 30 days before or more than 30 days after the anniversary date, the stockholder must deliver the stockholder's notice not earlier than the close of business on the 120th day prior to the date of the annual meeting and not later than the close of business on the later of the 90th day prior to the date of the annual meeting; or
- (2) if the first public announcement of the date of the annual meeting is less than 100 days prior to the date of the annual meeting, the 10th day following the date on which the Corporation first makes public announcement of the date of the meeting.

In no event shall any adjournment or postponement of an annual meeting or the announcement of the adjournment or postponement commence a new time period for the giving of a stockholder's notice as described above.

- (iii) To be in proper form, a stockholder's notice (whether given pursuant to this Section 10(a) or Section 10(b) of this Article II) to the Secretary must:
 - (A) set forth, as to the record stockholder giving the notice and any Stockholder Associated Person (as defined below) of the record stockholder:
 - (1) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business and any Stockholder Associated Person (defined below) covered by clauses (2) and (3) below;
 - (2) the class or series and the number of shares of the Corporation that are, directly or indirectly, owned beneficially and of record by the stockholder proposing such business and by any Stockholder Associated Person with respect to the Corporation's securities, and any derivatives, hedged positions, synthetic and temporary ownership techniques, swaps, securities loans, timed purchases and other economic and voting interests or similar positions, securities or interests held by such stockholder and Stockholder Associated Person with respect to the Corporation's securities;
 - (3) any material interest of the stockholder proposing such business or any Stockholder Associated Person in such business;

(4) description of all agreements, arrangements and understandings the stockholder proposing such business or any Stockholder Associated Person has with other persons or entities in connection with such business;

(5) a description of any agreement, arrangement, or understanding with respect to such nomination between or among the stockholder proposing such business or any Stockholder Associated Person;

(6) any other information relating to each Party that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to applicable laws; and

(7) a representation that the stockholder proposing such business is a holder of record of shares of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting, and a representation whether the stockholder proposing such business intends to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve the business or the nomination and/or otherwise to solicit proxies from stockholders in support of such business or the nomination.

(B) if the notice relates to any business that the stockholder proposes to bring before the meeting, set forth a brief description of the business that the stockholder desires to bring before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and if the business includes a proposal to amend these By-Laws, the text of the proposed amendment), the reasons for conducting the business at the meeting and any material interest of each Party in the business; and

(C) set forth, as to each person, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors:

(1) all information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to applicable laws (including the person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); and

(2) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among each stockholder proposing the nominee or a Stockholder Associated Person, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand.

(D) For purposes of these By-Laws, a “Stockholder Associated Person” of any stockholder means: (i) any “affiliate” or “associate” (as those terms are defined in applicable laws) of the stockholder that owns beneficially or of record any capital stock or other securities of the Corporation; and (ii) any person acting in concert with the stockholder or any affiliate or associate of the stockholder with respect to the capital stock or other securities of the Corporation.

(iv) Any proposed nominee shall:

(A) complete, sign and return to the Corporation an independence questionnaire, in a form the Corporation provides;

(B) sign and return a written representation and agreement, in a form the Corporation provides, that (i) the person does not have, nor will they have, any undisclosed voting commitments or other arrangements with respect to their actions as a director; (ii) that they comply with all applicable corporate governance policies and eligibility requirements of the Corporation; and (iii) any other information reasonably requested by the Corporation.

(b) Special Meetings of Stockholders.

All business to be conducted at a special meeting of stockholders must be brought before the meeting pursuant to the Corporation’s notice of meeting. Stockholders may make nominations of persons for election to the Board of Directors at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation’s notice of meeting:

(i) by or at the direction of the Board of Directors; or

(ii) if the Board of Directors has determined that directors shall be elected at the meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section is delivered to the Secretary, who is entitled to vote at the meeting and at the election and who delivers a written notice to the Secretary setting forth the information set forth in Section 10(a)(iii) of this Article II.

If the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, the stockholder may nominate a person or persons (as the case may be) for election to the position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by the preceding sentence with respect to any nomination is timely. To be timely, the stockholder must deliver the notice to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the later of the 90th day prior to the date of the special meeting or, if the first public announcement of the date of the special meeting is less than 100 days prior to the date of the special meeting, the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at the meeting. In no event shall any adjournment or postponement of a special meeting or the announcement of any adjournment or postponement commence a new time period for the giving of a stockholder's notice as described above.

(c) General.

- (i) Notwithstanding the foregoing provisions of this Section 10 of this Article II, a stockholder must also comply with all requirements of applicable law, including applicable stock exchange rules and regulations, and nothing in this Section 10 of this Article II will be deemed to affect any rights of a stockholder who seeks to have any proposal included in the Corporation's proxy materials in accordance with applicable law, including applicable stock exchange rules and regulations.
- (ii) The determination of whether any business sought to be brought before any annual or special meeting of the stockholders is properly brought before such meeting in accordance with this Section 10 of this Article II will be made by the presiding officer of such meeting. If the presiding officer determines that any business is not properly brought before such meeting, he will so declare to the meeting and any such business will not be conducted or considered.

SECTION 11. No Action by Written Consent. Any action required or permitted to be taken at any annual or special meeting of stockholders of the Corporation may be taken only upon the vote of the stockholders at an annual or special meeting duly called and may not be taken by written consent of the stockholders.

SECTION 12. Inspectors. The Board of Directors may, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting or any reconvened meeting. If any of the inspectors so appointed shall fail to appear or act, the chairman of the meeting may, or if inspectors shall not have been appointed, the chairman of the meeting may, appoint one or more inspectors. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath to faithfully execute the duties of inspector at the meeting with strict impartiality and according to the best of his ability. The inspectors shall determine the number of shares of capital stock of the Corporation outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in

connection with the right to vote, count and tabulate all votes, ballots or consents, determine the results, certify those determinations and do those acts as are otherwise required by law or as are proper to conduct the election or vote with fairness to all stockholders. On request of the chairman of the meeting, the inspectors shall make a report in writing of any challenge, request or matter determined by them and shall execute a certificate of any fact found by them. Inspectors may, but do not need to, be individuals who serve the Corporation in other capacities, including as officers, employees, agents or representatives; *provided* that no director or candidate for the office of director shall act as an inspector of an election of directors. Inspectors need not be stockholders.

ARTICLE III

BOARD OF DIRECTORS

SECTION 1. General Powers. The Board of Directors shall manage, or direct the management of, the business and affairs of the Corporation. The Board of Directors may exercise all such authority and powers of the Corporation and do all such lawful acts and things that are not directed or required by law or the Certificate of Incorporation to be exercised or done by the stockholders.

SECTION 2. Number. The Board of Directors shall be not less than three directors, the exact number of which shall be fixed, from time to time, by resolution adopted by the affirmative vote of a majority of the entire Board of Directors then in office. Directors need not be stockholders.

SECTION 3. Election and Term.

- (a) Except as DGCL, the Certificate of Incorporation, or these By-Laws otherwise provide, all of the directors will be elected annually at the annual meeting of stockholders.
- (b) Each director shall hold office until the director's successor shall have been elected and qualified, subject to the director's earlier death, resignation or removal, as provided in these By-Laws or the Certificate of Incorporation.

SECTION 4. Resignations. Any director of the Corporation may resign at any time by giving written notice of his or her resignation to the Corporation. The resignation shall take effect at the time specified in the notice of resignation or, if the effective time of the resignation is not specified in the notice, immediately upon the Corporation's receipt of the notice. Unless otherwise specified in the notice, the acceptance of the notice of resignation shall not be necessary to make the resignation effective.

SECTION 5. Removal of Directors. Except as prohibited by applicable law or the Certificate of Incorporation, the stockholders holding a majority of the shares then entitled to vote at an election of directors may remove any director from office with or without cause.

SECTION 6. Vacancies and Newly Created Directorships. Any newly created directorships resulting from an increase in the authorized number of directors and any vacancies occurring in

the Board of Directors, shall be filled by the affirmative votes of a majority of the remaining members of the Board of Directors, although less than a quorum, or by a sole remaining director. A director so elected shall be elected to hold office until the earlier of the expiration of the term of office of the director whom he or she has replaced, a successor is duly elected and qualified, or the earlier of such director's death, resignation, or removal.

SECTION 7. Place of Meetings. The Board of Directors may meet at the place or places, within or without the State of Delaware, as the Board of Directors may from time to time determine or as shall be specified in the notice of any such meeting.

SECTION 8. Regular Meetings. The Board of Directors shall hold regular meetings at the time and place as the Board of Directors may fix or as may be specified in a notice of meeting. Notice of regular meetings of the Board of Directors need not be given except as otherwise required by applicable law or these By-Laws.

SECTION 9. Special Meetings. The Board of Directors may hold special meetings at any time if the meeting is called by the Chairman of the Board of Directors; the Chief Executive Officer; two or more directors of the Corporation; or one director if there is only a single director in office.

SECTION 10. Notice of Meetings. Notice of regular meetings of the Board of Directors need not be given except as otherwise required by applicable law or these By-Laws. Notice of each special meeting of the Board of Directors (and of each regular meeting for which notice shall be required) shall be given at least 24 hours before each special meeting, in writing, by electronic transmission or orally (either in person or by telephone), including the time, date and place of the meeting. Any director may waive notice of any meeting in a signed writing or by an electronic transmission that is filed with the minutes or corporate records. Any director who is present at a meeting (in person or by telephone) shall be conclusively presumed to have waived notice of the meeting except when the director attends 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. Neither notice of a meeting nor a waiver of a notice need specify the purposes of, or the business to be transacted at, the meeting.

SECTION 11. Quorum and Manner of Acting. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. For an action of the Board of Directors to be taken at a meeting to be valid, directors that constitute a quorum must be present at the time that the vote on the action is taken. In the absence of a quorum at any meeting of the Board of Directors, a majority of the directors present thereat may adjourn the meeting until a quorum is present, and no further notice of the reconvened meeting need be given other than by announcement at the meeting which shall be so adjourned. The vote of a majority of the total number of directors present at the meeting at which there is a quorum shall determine all matters, except as the Certificate of Incorporation or these By-Laws otherwise provide or as applicable law requires.

SECTION 12. Organization. At each meeting of the Board of Directors, the Chairman of the Board, if one has been elected, or, in the absence of the Chairman of the Board or if one shall not have been elected, another director chosen by a majority of the directors present, shall act as

chairman of the meeting and preside at the meeting. The Secretary or, in his absence, any person appointed by the chairman, shall act as secretary of the meeting and keep the minutes of the meeting.

SECTION 13. Compensation. The Board of Directors shall have authority to fix or establish policies for the compensation, including fees and reimbursement of expenses, for services that the directors provide to the Corporation.

SECTION 14. Committees. The Board of Directors may designate one or more committees, including an executive committee, consisting of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Except to the extent restricted by applicable law or the Certificate of Incorporation, each committee, to the extent permitted by Section 141(c)(2) of the DGCL and provided in the resolution creating it, shall have and may exercise all the powers and authority of the Board of Directors; but no committee shall have the power or authority to:

- (a) approve, adopt or recommend to the stockholders any action or matter expressly required by Delaware law to be submitted to the stockholders for approval; or
- (b) adopt, amend or repeal any By-Law of the Corporation.

SECTION 15. Action by Consent. Unless restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken by the Board of Directors or any committee of the Board of Directors may be taken without a meeting if all members of the Board of Directors or the committee, as the case may be, consent to the action in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions (or paper reproductions of them) are filed with the minutes of the proceedings of the Board of Directors or the committee, as the case may be. The filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

SECTION 16. Telephonic Meeting. Any one or more members of the Board of Directors or any committee of the Board of Directors may participate in a meeting of the Board of Directors or the committee by means of a conference call or using any communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at a meeting.

SECTION 17. Electronic Transmission. To the fullest extent permitted by applicable law, any action permitted to be taken in writing pursuant to these By-Laws may also be taken by electronic transmission; *provided*, that for the avoidance of doubt, any action required to be taken by a stockholder or Stockholder Associated Person under Section 10 of Article II of these By-Laws may not be taken by electronic transmission.

ARTICLE IV

OFFICERS

SECTION 1. Number and Qualifications. The Board of Directors shall elect the officers of the Corporation, which may include a Chief Executive Officer, a President, one or more Vice Presidents, and a Secretary. The Board of Directors may also select other officers as it may deem to be necessary or appropriate, including a Chairman, a Chief Financial Officer, a Chief Accounting Officer, a General Counsel, a Treasurer, one or more Assistant Secretaries and one or more Assistant Treasurers. Any two or more offices may be held by the same person, and no officer except the Chairman of the Board need be a director. Each officer shall hold office until his successor shall have been duly elected, or until his death, or until he shall have resigned or have been removed, as hereinafter provided in these By-Laws.

SECTION 2. Resignations. Any officer of the Corporation may resign at any time by giving written notice of his resignation to the Corporation. The resignation shall take effect at the time specified in the notice of resignation or, if the effective time of the resignation is not specified in the notice, immediately upon the Corporation's receipt of the notice. Unless otherwise specified in the notice, the acceptance of the notice of resignation shall not be necessary to make the resignation effective.

SECTION 3. Removal. The Board of Directors may remove any officer of the Corporation, with or without cause, at any time.

SECTION 4. Chairman of the Board. The Chairman of the Board, if one is elected, shall preside at meetings of the Board of Directors or the stockholders. The Chairman shall have the powers and duties customarily and usually associated with the office of the Chairman of the Board of Directors and shall perform such other duties as the Board of Directors may from time to time assign to him or her. The same individual may serve as both Chairman of the Board and Chief Executive Officer.

SECTION 5. Chief Executive Officer. The Chief Executive Officer shall, in the absence of the Chairman of the Board, if available and present, preside at each meeting of the Board of Directors or the stockholders. The Chief Executive Officer shall have the powers and duties customarily and usually associated with the position of Chief Executive Officer and those other powers and duties as the Board of Directors may from time to time assign to him or her.

SECTION 6. President. The President shall have the powers and duties customarily and usually associated with the office of the President and those other powers and duties as the Board of Directors may from time to time assign to him or her. The Chairman of the Board, Chief Executive Officer and the President may be the same person.

SECTION 7. Vice-President. Each Vice-President shall have those powers and perform those duties as the Board of Directors may from time to time assign to him or her. The Board of Directors may name Executive Vice Presidents or Senior Vice Presidents or otherwise establish different categories of vice presidents.

SECTION 8. Secretary. The Secretary shall have the powers and duties as are customarily and usually associated with the position of Secretary or as the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer may from time to time assign to him or her.

SECTION 9. General Counsel. The General Counsel shall have the powers and duties customarily and usually associated with the office of the General Counsel and the other powers and duties as the Board of Directors may from time to time be assigned to him or her.

SECTION 10. Other Officers. The Chief Operating Officer, Chief Financial Officer, Chief Administrative Officer, Chief Accounting Officer, Chief Information Officer, Chief Compliance Officer, Treasurer, Assistant Secretaries and Assistant Treasurers, if any, and any other officers shall perform the duties as the Board of Directors may from time to time assign.

SECTION 11. Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

ARTICLE V

CAPITAL STOCK

SECTION 1. Issuance of Stock. Unless otherwise voted by stockholders and subject to the provisions of the Certificate of Incorporation and the DGCL, the whole or any part of any unissued balance of the authorized capital stock of the Corporation or the whole or any part of any unissued balance of the authorized capital stock of the Corporation held in its treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in the manner, for the consideration and on the terms as the Board of Directors may determine.

SECTION 2. Stock Certificates. Certificates shall represent the stock of the Corporation, *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 the 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 Chairman of the Board, or the President or Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation.

SECTION 3. Facsimile Signatures. Any or all of the signatures on a 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 that officer, transfer agent or registrar before the certificate is issued, it may be issued by the Corporation with the same effect as if he were that officer, transfer agent or registrar at the date of issue.

SECTION 4. Lost Certificates. The Corporation shall not issue certificates for shares of stock in the Corporation in place of any certificate alleged to have been lost, stolen or destroyed, except upon production of such evidence of the loss, theft or destruction and, if the Board of Directors

so requests, upon delivery to the Corporation of a bond of indemnity in the amount, upon the terms and secured by the surety, as the Board of Directors in its discretion may require.

SECTION 5. Transfers of Stock. Transfers of stock shall be made on the books of the Corporation by the holder of the shares in person or by the holder's attorney upon surrender and cancellation of certificates for a like number of shares, or as law otherwise provides with respect to uncertificated shares.

SECTION 6. Fixing the Record Date. In order that the Corporation may determine the stockholders entitled:

- (a) to notice of and to vote at any meeting of stockholders;
- (b) to express consent to corporate action in writing without a meeting (to the extent permitted by the Certificate of Incorporation and By-Laws);
- (c) to receive payment of any dividend or other distribution or allotment of any rights;
- (d) to exercise any rights in respect of any change, conversion or exchange of stock; or
- (e) for the purpose of any other lawful action;

The Board of Directors may establish, in advance, a record date. Any record date to determine the stockholders entitled to notice of a meeting of stockholders shall not be more than 60 nor less than 10 days before the date of the meeting and, if the Board of Directors so fixes such a date, that date shall also be the record date for determining the stockholders entitled to vote at that meeting unless the Board of Directors determines, at the time it fixes the record date, that a later date on or before the meeting shall be the date for making the determination. Any record date for purposes of any other action described above shall be fixed or determined in accordance with applicable law.

If no record date is fixed, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed, the record date for determining stockholders for any other purpose shall be determined in accordance with applicable law.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided* that the Board of Directors may fix a new record date for the reconvened meeting.

SECTION 7. Registered Stockholders. The books of the Corporation shall include the names and addresses of the holders of record of the shares of stock of the Corporation's capital, together with the number of shares of each class and series held by each record holder and the date of issue of those shares. The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock as the person entitled to exercise

the rights of a stockholder, including to receive dividends and to vote as the owner. The Corporation shall not be bound to recognize any equitable or other claim to or interest in the share or shares of stock on the part of any other person, whether or not it shall have express or other notice of the claim, except as the laws of Delaware otherwise provide.

SECTION 8. Dividends. Subject to applicable law and the Certificate of Incorporation, the Board of Directors may, out of funds legally available for dividends at any regular or special meeting, declare dividends upon the capital stock of the Corporation as and when it deems expedient. Dividends may be paid in cash, in property or in shares of stock of the Corporation, unless applicable law or the Certificate of Incorporation otherwise provide. Before declaring any dividend there may be set apart out of any funds of the Corporation available for dividends, a sum or sums as the 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 directors shall deem conducive to the interests of the Corporation.

SECTION 9. Transfer Agents and Registrars. The Board of Directors may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

SECTION 10. Regulations. The Board of Directors may make additional rules and regulations, not inconsistent with these By-Laws, as it may deem expedient concerning the issue, transfer and registration of certificates for shares of stock or with respect to uncertificated shares of stock of the Corporation.

ARTICLE VI

INDEMNIFICATION

SECTION 1. Right to Indemnification. The Corporation shall indemnify and hold harmless to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person who was or is made or is threatened to be made a party or is otherwise involved in any action, suit, or proceeding, whether civil, criminal, administrative, or investigative (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director, or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust, enterprise, or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) actually and reasonably incurred by such person. Notwithstanding the preceding sentence, the Corporation shall be required to indemnify a person in connection with a Proceeding (or part thereof) commenced by such person only if the commencement of such Proceeding (or part thereof) by the person was authorized in the specific case by the Board of Directors.

SECTION 2. Right to Advancement of Expenses. The Corporation shall pay the expenses (including attorneys' fees) actually and reasonably incurred by a director or officer of the Corporation in defending any Proceeding in advance of its final disposition, upon receipt of an undertaking by or on behalf of such person to repay all amounts advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such

person is not entitled to be indemnified for such expenses under this Section 2 of this Article VI or otherwise. Payment of such expenses actually and reasonably incurred by such person, may be made by the Corporation, subject to such terms and conditions as the general counsel of the Corporation in his or her discretion deems appropriate.

SECTION 3. Non-Exclusivity of Rights. The rights conferred on any person by this Article VI will not be exclusive of any other right which such person may have or hereafter acquire under any applicable law, provision of the Certificate of Incorporation, these by-laws, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees, or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL.

SECTION 4. Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or nonprofit entity shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, enterprise, or nonprofit entity.

SECTION 5. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or nonprofit entity against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the DGCL.

SECTION 6. Repeal, Amendment, or Modification. Any amendment, repeal, or modification of this Article VI shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE VII

GENERAL PROVISIONS

SECTION 1. Seal. The seal of the Corporation shall be in the form as shall be approved by the Board of Directors.

SECTION 2. Fiscal Year. The Board of Directors, by resolution, shall fix the fiscal year of the Corporation. Once fixed, the Board of Directors may change the fiscal year by resolution.

SECTION 3. Reliance upon Books, Reports and Records. Each director, each member of any committee designated by the Board of Directors and each officer shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books and records of the Corporation and upon the information, opinions, reports or statements presented to the Corporation by any of its officers, agents or employees, or committees of the Board of Directors

so designated, or by any other person or entity as to matters which the director, committee member or officer reasonably believes are within the other person's or entity's professional or expert competence and that has been selected with reasonable care by or on behalf of the Corporation.

SECTION 4. Certificate of Incorporation. All references in these By-Laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended or restated and in effect from time to time.

SECTION 5. Severability and Inconsistency. Any determination that any provision of these By-Laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-Laws. If any provision of these By-Laws is or becomes inconsistent with any provision of the Certificate of Incorporation, the DGCL or any other applicable law, the provision of these By-Laws shall not be given any effect to the extent of the inconsistency, but shall otherwise be given full force and effect.

SECTION 6. Notice and Waiver of Notice. Whenever any notice is required to be given to any stockholder or director by these By-laws or the Certificate of Incorporation, it shall be deemed to be sufficient if given by mailing, postage paid, addressed to the person or persons entitled thereto at their post office addresses appearing on the books or other records of the Corporation, and such notice shall be deemed to have been given on the date of such mailing, but said notice shall also be deemed to be sufficient and to have been given and received if given in any other manner or by any other means authorized by law or provided for elsewhere in these By-laws. A waiver or waivers of notice, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VIII

AMENDMENTS

SECTION 1. These By-Laws may be amended or repealed or new by-laws adopted:

- (a) if the Certificate of Incorporation so provides, by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present, or
- (b) when a quorum is present at any annual or special meeting of stockholders, by the vote of the holders of at least two-thirds of the voting power of the issued and outstanding stock of the Corporation entitled to vote thereon.