

DBM GLOBAL INC.

**NOTICE OF ACTION BY THE MAJORITY STOCKHOLDER
BY WRITTEN CONSENT**

On August 15, 2022, the undersigned stockholder, holding greater than eighty-nine percent (89%) of the voting power of the outstanding shares of common stock of DBM Global Inc., a Delaware corporation (the "*Company*"), acted by written consent (the "*Written Consents of the Majority Stockholder*") (1) to remove all sitting members of the Company's board of directors and to elect each of James R. Roach, Michael R. Hill, Wayne Barr, Jr., Robert V. Leffler, Jr., Brian Goldstein, Holly Cindell, and Robert Holland as a director of the Company; and (2) to amend and restate the Bylaws of the Company.

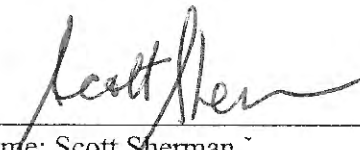
The Written Consents of the Majority Stockholder are attached as Exhibit A and Exhibit B to this Notice.

This notice is being sent to the stockholders of the Company other than the stockholder of the Company who executed and delivered the Written Consents of the Majority Stockholder referenced herein on or about August 16, 2022, and shall constitute a Section 228(e) notice of stockholder action without a meeting under the Delaware General Corporation Law.

DBM GLOBAL INC.

Dated: August 16, 2022

By: _____


Name: Scott Sherman

Title: Vice President and General Counsel

EXHIBIT A

**Written Consent of the Majority Stockholder
Re Removal and Election of Directors**

DBM GLOBAL INC.

**WRITTEN CONSENT OF THE MAJORITY STOCKHOLDER TO REMOVE ALL
CURRENT DIRECTORS AND ELECT NEW DIRECTORS IN LIEU OF MEETING**

August 15, 2022

Pursuant to Section 228 of the General Corporation Law of the State of Delaware

The undersigned stockholder of DBM Global Inc., a Delaware corporation (the "**Company**"), holding greater than eighty-nine percent (89%) of the outstanding shares of common stock, par value \$0.001 per share, of the Company, such common stock constituting the only class or series of capital stock of the Company entitled to vote with respect to the removal and election of directors of the Company, pursuant to Section 228 of the General Corporation Law of the State of Delaware (the "**DGCL**"), DOES HEREBY CONSENT to the adoption of, and DOES HEREBY ADOPT, the following resolutions:

Removal of All Current Directors and Election of New Directors:

WHEREAS, Section 211(b) of the DGCL provides that unless the certificate of incorporation of the Company otherwise provides, the stockholders of the Company may act by written consent to elect directors; provided, however, that if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting at the effective time of such action are vacant and are filled by such action;

WHEREAS, the certificate of incorporation of the Company does not prohibit stockholder action by written consent or stockholder action pursuant to Section 211(b) of the DGCL;

WHEREAS, the Board of Directors of the Company (the "**Board**") is not "classified" and the Company's certificate of incorporation does not provide for cumulative voting;

WHEREAS, the total number of authorized directors is seven and there is one vacancy on the Board; and

WHEREAS, the undersigned stockholder desires to remove each of the currently serving directors of the Company effective immediately;

NOW, THEREFORE, BE IT:

RESOLVED, that the six current members of the Board – James R. Roach, Michael R. Hill, Wayne Barr, Jr., Robert V. Leffler, Jr., Brian Goldstein, and Holly Cindell – be, and each of them hereby is, removed effective immediately;

RESOLVED FURTHER, that the following individuals be, and each hereby is, elected to fill the vacancies on the Board, each to hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal:

James R. Roach
Michael R. Hill
Wayne Barr, Jr.
Robert V. Leffler, Jr.
Brian Goldstein
Holly Cindell
Robert Holland

FURTHER RESOLVED, that the Secretary of the Company is hereby directed to file a signed copy of this Written Consent in the minute book of the Company.

IN WITNESS WHEREOF, the undersigned stockholder has signed this Written Consent as of the date first provided above.

**DBM GLOBAL INTERMEDIATE HOLDCO,
INC.**

By: Michael J. Sena
Name: Michael J. Sena
Title: Chief Financial Officer

EXHIBIT B

**Written Consent of the Majority Stockholder
Re Adoption of Amended and Restated Bylaws**

DBM GLOBAL INC.

**WRITTEN CONSENT OF THE MAJORITY STOCKHOLDER IN LIEU OF A MEETING
TO ADOPT AMENDED AND RESTATED BYLAWS**

August 15, 2022

Pursuant to Section 228 of the General Corporation Law of the State of Delaware

The undersigned stockholder of DBM Global Inc., a Delaware corporation (the "**Company**"), holding more than eighty-nine percent (89%) of the outstanding shares of common stock, par value \$0.001 per share, of the Company, such common stock constituting the only class or series of capital stock of the Company entitled to vote with respect to amendment of the Company's Bylaws, pursuant to Article 8 Section 8.1 of the Company's Bylaws and Article Six of the Company's Certificate of Incorporation, DOES HEREBY CONSENT to the adoption of, and DOES HEREBY ADOPT, the following resolutions:

Approval of Amended and Restated Bylaws:

WHEREAS, the stockholder has reviewed the proposed form of the Amended and Restated Bylaws, a copy of which is attached hereto as Exhibit A;

WHEREAS, a document identifying the changes reflected in the Amended and Restated Bylaws is attached hereto as Exhibit B; and

WHEREAS, the stockholder believes it is in the best interest of the Company to adopt the Amended and Restated Bylaws.

NOW, THEREFORE, BE IT:

RESOLVED, that the Amended and Restated Bylaws, in substantially the form attached hereto as Exhibit A, are hereby approved; and

FURTHER RESOLVED, that the Secretary of the Company is hereby directed to file a signed copy of this Written Consent in the minute book of the Company.

IN WITNESS WHEREOF, the undersigned stockholder has signed this Written Consent as of the date first provided above.

**DBM GLOBAL INTERMEDIATE HOLDCO,
INC.**

By: Michael J. Sena
Name: Michael J. Sena
Title: Chief Financial Officer

EXHIBIT A

Amended and Restated Bylaws

AMENDED AND RESTATED BYLAWS OF

DBM GLOBAL INC.

(formerly known as SCHUFF INTERNATIONAL, INC.)

**ARTICLE 1
OFFICES**

Section 1.1 Registered Office. The registered office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware.

Section 1.2 Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors or the officers may from time to time determine.

**ARTICLE 2
MEETINGS OF STOCKHOLDERS**

Section 2.1 Place of Meetings. Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware, or by means of remote communication, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2.2 Annual Meetings. The annual meetings of stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which meetings the stockholders shall elect by a plurality vote members of the Board of Directors, and transact such other business as may properly be brought before the meeting. Written notice of the annual meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten nor more than sixty days before the date of the meeting. The Board of Directors may cancel, postpone or reschedule any previously scheduled annual meeting at any time, before or after the notice for such meeting has been sent to the stockholders.

Section 2.3 Special Meetings. Subject to the rights of the holders of any series of preferred stock, par value \$0.001 per share, of the Corporation (the "Preferred Stock") or any other series or class of stock as set forth in the Certificate of Incorporation, special meetings of the stockholders may be called for any purpose by the Board of Directors, Chairman of the Board, or upon the written request of stockholders, stating the purpose or purposes of the meeting, signed by the holders of at least fifty percent (50%) of the voting power of the issued and outstanding stock entitled to vote at such meeting.

Section 2.4 Quorum. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the capital stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the stockholders, a majority of the stockholders entitled to vote, and present in person, by electronic communication, or represented by proxy,

shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given not less than ten nor more than sixty days before the date of the adjourned meeting to each stockholder entitled to vote at the meeting.

Section 2.5 Voting. Unless otherwise required by law, the Certificate of Incorporation or these By-Laws, any question brought before any meeting of stockholders shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote thereat. Each stockholder represented at a meeting of stockholders shall be entitled to cast one vote for each share of the capital stock entitled to vote held by such stockholder. Votes may be cast in person or by proxy but no proxy may be voted on or after three years from its date, unless such proxy provides for a longer period. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in such officer's discretion, may require that any votes cast at such meeting be cast by written ballot.

Section 2.6 List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten 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 stockholder of the Corporation who is present.

Section 2.7 Stock Ledger. The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 2.6 or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders. Any good faith decision in regard to such matters by the officer of the Corporation who has charge of the stock ledger of the Corporation, which may be the Secretary, any Assistant Secretary or any other appropriate officer of the Corporation designated by the Board of Directors shall be final.

Section 2.8 Nomination of Directors. With the exception of persons elected to the Board of Directors by written consent in lieu of holding an annual meeting of stockholders pursuant to 8 *Del. C.* § 211(b), only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation. Nominations of persons for election to the Board of Directors may be made at any annual meeting of stockholders (a) by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (b) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.8 and on the record date for the determination of

shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given not less than ten nor more than sixty days before the date of the adjourned meeting to each stockholder entitled to vote at the meeting.

Section 2.5 Voting. Unless otherwise required by law, the Certificate of Incorporation or these By-Laws, any question brought before any meeting of stockholders shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote thereat. Each stockholder represented at a meeting of stockholders shall be entitled to cast one vote for each share of the capital stock entitled to vote held by such stockholder. Votes may be cast in person or by proxy but no proxy may be voted on or after three years from its date, unless such proxy provides for a longer period. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in such officer's discretion, may require that any votes cast at such meeting be cast by written ballot.

Section 2.6 List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten 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 stockholder of the Corporation who is present.

Section 2.7 Stock Ledger. The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 2.6 or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders. Any good faith decision in regard to such matters by the officer of the Corporation who has charge of the stock ledger of the Corporation, which may be the Secretary, any Assistant Secretary or any other appropriate officer of the Corporation designated by the Board of Directors shall be final.

Section 2.8 Nomination of Directors. With the exception of persons elected to the Board of Directors by written consent in lieu of holding an annual meeting of stockholders pursuant to 8 *Del. C.* § 211(b), only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation. Nominations of persons for election to the Board of Directors may be made at any annual meeting of stockholders (a) by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (b) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.8 and on the record date for the determination of

stockholders entitled to vote at such annual meeting and (ii) who gives timely notice in proper written form to the Secretary of the Corporation, as prescribed below.

To be timely, a stockholder's notice must be delivered to or mailed and received by the Secretary of the Corporation at least 120 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is called for a date that is not within 30 days before or after such anniversary date, notice by the stockholder in order to be timely must be received not later than the close of business on the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs.

To be in proper written form, a stockholder's notice to the Secretary must set forth (i) the name and address of the stockholder who intends to make the nomination and of the person or persons to be nominated; (ii) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting (including the number of shares of stock of the Corporation owned beneficially or of record by such stockholder and the nominee or nominees) and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (iii) a description of all arrangements or understandings between the stockholders and each nominee and any other person or persons (naming such person or persons and identifying the number of shares of stock of the Corporation owned beneficially or of record by such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (iv) such other information regarding each nominee proposed by such stockholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission had each nominee been nominated, or intended to be nominated, by the Board of Directors; (v) the consent of each nominee to serve as a director of the Corporation if so elected; and (vi) for each nominee, a particular signed and completed form of questionnaire disclosing certain personal information and potential conflicts of the nominee in question. This form of questionnaire may be obtained from the Corporation only by a stockholder of record, and the Corporation shall provide this form within ten (10) business days after receiving an official written request from any stockholder of record. Under no circumstance shall the Corporation be required to send this form of questionnaire to any person who is not a stockholder of record.

The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation. With the exception of persons elected to the Board of Directors by written consent in lieu of holding an annual meeting of stockholders pursuant to 8 *Del. C.* § 211(b) and subject to the below exception, no person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 2.8. If the Board of Directors determines that a nomination was not made in accordance with the foregoing procedures, the Board of Directors shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded. Notwithstanding compliance with the foregoing provisions, the Board of Directors shall not be obligated to include information as to any stockholder nominee for director in any proxy statement or other communication sent to stockholders, except as provided by applicable law.

Notwithstanding anything to the contrary contained in this Section 2.8 or Section 2.9 below, for as long INNOVATE Corp. or any affiliates thereof, control at least 50% of the Corporation's outstanding stock entitled to vote, INNOVATE Corp. and any affiliates thereof shall not be subject to the notice or other procedures set forth in this Section 2.8 or Section 2.9 with respect to any annual or special meeting of stockholders.

Section 2.9 Business at Annual Meetings. No business may be transacted at an annual meeting of stockholders, other than business that is either (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (b) otherwise properly brought before the annual meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (c) otherwise properly brought before the annual meeting by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.9 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (ii) who gives timely notice in proper written form to the Secretary of the Corporation, as prescribed below.

To be timely, a stockholder's notice must be delivered to or mailed and received by the Secretary of the Corporation at least 120 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is called for a date that is not within 30 days before or after such anniversary date, notice by the stockholder in order to be timely must be received not later than the close of business on the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs.

To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter such stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting; (ii) the name and record address of such stockholder; (iii) the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by such stockholder; (iv) a description of all arrangements or understandings between such stockholder and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder in such business; and (v) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.

The Corporation may require any stockholder to furnish such other information as it may reasonably require.

No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.9. If the Board of Directors determines that business was not properly brought before the annual meeting in accordance with the foregoing procedures, the Board of Directors shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted. Notwithstanding compliance with the foregoing provisions, the Board of Directors shall not be obligated to include information as to any stockholder business

or proposals in any proxy statement or other communication sent to stockholders, except as provided by applicable law.

Section 2.10 Stockholder Action by Written Consent. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any annual or special meeting of the stockholders 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 and shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which minutes of proceedings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall, to the extent required by law, be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation.

No written consent shall be effective to take the corporate action referred to therein unless written consents signed by a sufficient number of stockholders to take action are delivered to the Corporation in the manner prescribed in this Section 2.10 and applicable law within 60 days of the first date on which a written consent is so delivered to the Corporation.

ARTICLE 3 DIRECTORS

Section 3.1 Duties and Powers. The business and affairs of the Corporation shall be managed and controlled by a Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 3.2 Number. The first Board of Directors shall consist of the persons named in the Certificate of Incorporation. Thereafter, the Board shall consist of not less than one (1) nor more than nine (9) members. The Board of Directors will have the power to increase or decrease its size subject to these limits and to fill any vacancies that may occur in its membership, whether resulting from an increase in the size of the Board or otherwise.

Section 3.3 Election of Directors. Directors shall be elected by a plurality of the votes cast at annual meetings of stockholders or special meetings called for that purpose. Any director may resign at any time upon notice to the Corporation. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Directors need not be stockholders of the Corporation. Each director elected shall hold office until his or her successor is duly elected and qualified, or until he or she resigns or is removed as a director, whichever occurs first.

Section 3.4 Meetings. The Board of Directors of the Corporation may hold meetings both regular and special, either within or without the State of Delaware. Regular meetings of the Board of Directors may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman or by a majority of the directors then in office. Notice thereof stating the place, date and hour of the meeting shall be given to each director either in writing or by electronic transmission not less than 48 hours before the date of the meeting or orally, either in person or by telephone, on 24 hours' notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances.

Section 3.5 Quorum. Except as may be otherwise specifically provided by law, the Certificate of Incorporation or these By-Laws, at all meetings of the Board of Directors, a majority of the total number of authorized directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. " means the total number of directors which the Corporation would have if there were no vacancies. If a quorum shall not be present at any meeting of the Board of Directors, the directors present at that meeting may adjourn the meeting, without notice other than announcement at the meeting, until a quorum is present.

Section 3.6 Actions of Board. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all the members of the Board of Directors or committee, as the case may be, consent thereto in writing, or by electronic transmission, and the consent or consents are filed with the minutes of proceedings of the Board of Directors or committee.

Section 3.7 Meetings by Means of Conference Telephone. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, members of the Board of Directors of the Corporation, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 3.7 shall constitute presence in person at such meeting.

Section 3.8 Committees. The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate one or more committees, each committee to consist 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 any such committee. In the event of the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. A majority of the members of a committee, including any alternate members, shall constitute a quorum of such committee. Any committee, to the extent allowed by law and provided in the resolution establishing such committee, 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; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation of the Corporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, adopting, amending or repealing any By-Laws of the Corporation, or approving or adopting, or recommending to the stockholders, any other action or matter expressly required by law or the Certificate of Incorporation to be submitted to stockholders for approval; and, unless the resolution expressly so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Each committee shall keep regular minutes and report to the Board of Directors when required.

Section 3.9 Compensation. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings. In addition, the Board of Directors may adopt one or more director compensation plans using securities of the Corporation.

Section 3.10 Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of the Corporation's directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because such director's vote is counted for such purpose if (i) the material facts as to such director's relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to such director's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by a vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof, or the stockholders. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a Committee that authorizes the contract or transaction.

Section 3.11 Removal of Directors. A director may be removed, with or without cause, at any time by the affirmative vote of a majority in voting power of the outstanding capital stock of the Corporation then entitled to vote at an election of directors, at a special meeting of the stockholders called for the purpose, or by written consent. The vacancy in the Board of Directors caused by any such removal shall be filled by (i) the Board of Directors or (ii) by a stockholder written consent.

ARTICLE 4 OFFICERS

Section 4.1 General. The officers of the Corporation shall be chosen by the Board of Directors and may include a President, a Secretary, and a Treasurer. The Board of Directors, in its discretion, may also choose a Chairman of the Board of Directors (who must be a director) and one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers. Any number of offices may be held by the same person, unless otherwise prohibited by law, the Certificate of Incorporation or these By-Laws. The officers of the Corporation need not be stockholders of the Corporation nor, except in the case of the Chairman of the Board of Directors, directors of the Corporation. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the Board of Directors may authorize any officer or officers, or agent or agents, to enter into any contract or execute any document or instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 4.2 Election. The officers of the Corporation 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; and all officers of the Corporation shall hold office until their successors are chosen and qualified, or until their earlier resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors. The salaries of all officers of the Corporation shall be fixed by the Board of Directors or by a committee thereof.

Section 4.3 Voting Securities Owned by the Corporation. Unless the Board of Directors instructs otherwise, powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chairman, President or any Vice President and any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

Section 4.4 Chairman of the Board of Directors. The Chairman of the Board of Directors, if there be one, may preside at all meetings of the stockholders and of the Board of Directors. During the absence or disability of the President, the Chairman of the Board of Directors shall exercise all the powers and discharge all the duties of the President. The Chairman of the Board of Directors shall also perform such other duties and may exercise such other powers as from time to time may be assigned to the Chairman by these By-Laws or by the Board of Directors. All officers of the Corporation shall be under the supervision of the Board of Directors and shall perform all such duties as shall be assigned by the Board of Directors.

Section 4.5 President. The President, if there shall be one, shall, subject to the control of the Board of Directors have general supervision of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. In the event of the absence or disability of the Chairman of the Board of Directors, or if there be none, the President shall perform such other duties and may exercise such other powers as from time to time may be assigned to the President by these By-Laws or by the Board of Directors.

Section 4.6 Vice Presidents. At the request of the Board or Directors or the President or in the President's absence or in the event of the President's inability or refusal to act, the Vice President or the Vice Presidents if there is more than one (in the order designated by the Board of Directors) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Each Vice President shall perform such other duties and have such other powers as the Board of Directors and/or the President from time to time may prescribe.

Section 4.7 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of stockholders and record all the proceedings thereat in a book or books to be kept for that purpose; the Secretary shall also perform like duties for the standing committees when requested or appropriate. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or President. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the stockholders and special meetings of the Board of Directors, and if there be no Assistant Secretary, then the Board of Directors may choose another officer to cause such notice to be given. The Secretary shall have custody of the seal of the Corporation, if there is one, and the Secretary or any Assistant Secretary, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by such officer's signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

Section 4.8 Treasurer. The Treasurer shall supervise the maintenance of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors or Chairman. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors or President, and shall render to the President and the Board of Directors, at regular meetings of the Board of Directors, or when the Board of Directors so requires, an account of all transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall perform such other duties and have such powers as the Board of Directors or President from time to time may prescribe. If required by the Board of Directors, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of such office and for the restoration to the Corporation, in case of the Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and

other property of whatever kind in the Treasurer's possession or under such officer's control belonging to the Corporation.

Section 4.9 Assistant Secretaries. Assistant Secretaries, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors the President, any Vice President, if there be one, or the Secretary, and in the absence of the Secretary or in the event of such officer's disability or refusal to act, shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

Section 4.10 Assistant Treasurers. Assistant Treasurers, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice President, if there be one, or the Treasurer, and in the absence of the Treasurer or in the event of such officer's disability or refusal to act, shall perform the duties of the Treasurer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Treasurer. If required by the Board of Directors, an Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of such officer's office and for the restoration to the Corporation, in case of the Assistant Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in such officer's possession or under such officer's control belonging to the Corporation.

Section 4.11 Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors or President. The Board of Directors may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

ARTICLE 5 STOCK

Section 5.1 Form of Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate signed in the name of the Corporation (i) by the Chairman of the Board of Directors, the President or a Vice President and (ii) by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by such holder in the Corporation.

Section 5.2 Signatures. When a certificate is countersigned by (i) a transfer agent other than the Corporation or its employee, or (ii) a registrar other than the Corporation or its employee, any other signature on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Section 5.3 Lost Certificates. The Secretary may direct a new certificate to be issued in place of any certificate issued by the Corporation alleged to have been lost, stolen or destroyed, upon

the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing the issuance of a replacement certificate, the Secretary may, in such officer's discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or such owner's legal representative, to advertise the same in such manner as the Secretary shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 5.4 Transfers. Stock of the Corporation may be transferred in the manner prescribed by law and in these By-Laws. Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate or by such person's attorney lawfully constituted in writing and upon the surrender of the certificate therefor, which shall be canceled before a new certificate shall be issued.

Section 5.5 Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, 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 exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 days nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. 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, however, that the Board of Directors may fix a new record date for the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall be not more than ten (10) days after the date upon which the resolution fixing the record date is adopted. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary of the Corporation, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors and no prior action by the Board of Directors is required by the Delaware General Corporation Law ("DGCL"), the record date shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by the DGCL with respect to the proposed action by written consent of the stockholders, the record date for determining stockholders entitled to consent to corporate action in writing shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 5.6 Beneficial Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable

or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

ARTICLE 6 NOTICES

Section 6.1 Notices. Whenever written notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, such notice shall be in writing and may (a) in every instance in connection with any delivery to a member of the Board, be effectively given by hand delivery (including use of a delivery service), by depositing such notice in the mail, postage prepaid, or by sending such notice by prepaid overnight express courier, facsimile, electronic mail or other form of electronic transmission and (b) effectively be delivered to a stockholder when given by hand delivery, by depositing such notice in the mail, postage prepaid or by sending such notice by electronic transmission in accordance with Section 232 of the DGCL. Any such notice shall be addressed to the person to whom notice is to be given at such person's address as it appears on the records of the Corporation. Except as otherwise provided by law, the notice shall be deemed given (a) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (b) in the case of delivery by mail, upon deposit in the mail, postage prepaid, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via electronic mail or other form of electronic transmission, when dispatched..

Section 6.2 Electronic Transmission. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission in accordance with the Section 232 of the DGCL.

Section 6.3 Affidavit of Giving Notice. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 6.4 Waivers of Notice. Whenever any notice is required by law, the Certificate of Incorporation, or these Bylaws a waiver thereof in writing (including by electronic transmission), signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE 7 GENERAL PROVISIONS

Section 7.1 Dividends. Dividends upon the capital stock of the Corporation, subject to applicable law and the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, and may be paid in cash, in property, or in shares of the capital stock. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of

Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves for any proper purpose, and the Board of Directors may modify or abolish any such reserve.

Section 7.2 Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 7.3 Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 7.4 Corporate Seal. The Corporation may have a corporate seal, which shall have inscribed thereon the words "Corporate Seal". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. However, nothing in these By-Laws or in the Certificate of Incorporation of the Corporation shall be construed to require a corporate seal to be affixed to any document.

Section 7.5 Severability. If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Certificate of Incorporation, then such provision shall, to the fullest extent permitted by law, be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

Section 7.6 Form of Records. Any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the DGCL.

Section 7.7 Forum for Certain Actions. To the fullest extent permitted by applicable law:

(A) Unless the corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another State court in Delaware or the federal district court for the District of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by, or otherwise wrongdoing by, any director, stockholder, officer or other employee of the corporation to the corporation or the corporation's stockholders, (iii) any action arising pursuant to any provision of the DGCL or the Certificate of Incorporation or these Bylaws (as either may be amended from time to time), (iv) any action to interpret, apply, enforce or determine the validity of the Certificate of Incorporation or these Bylaws (as either may be amended from time to time), or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the DGCL, except for, as to each of (i) through (v) above, any claim as to which such court determines that there is an indispensable party not subject to the

jurisdiction of such court (and the indispensable party does not consent to the personal jurisdiction of such court within ten (10) days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than such court, or for which such court does not have subject matter jurisdiction. For the avoidance of doubt, this Section 7.7 shall not apply to any action brought to enforce a duty or liability created by the Securities Act of 1933, or any successor thereto (the "Securities Act") or the 1934 Act.(B) Unless the corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

Section 7.8 Construction. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes a corporation, partnership, limited liability company, joint venture, trust or other enterprise, and a natural person. Any reference in these Bylaws to a section of the DGCL shall be deemed to refer to such section as amended from time to time and any successor provisions thereto.

ARTICLE 8 AMENDMENTS

Section 8.1 These By-Laws may be altered, amended or repealed, in whole or in part, or new By-Laws may be adopted by the stockholders, subject to the provisions of the Certificate of Incorporation, or by the Board of Directors; provided, however, that notice of such alteration, amendment, repeal or adoption of new By-Laws be contained in the notice of such meeting of stockholders or Board of Directors as the case may be. If such amendments are enacted via written consent, notice shall be provided pursuant to Section 6.1.

EXHIBIT B

**Revisions Reflected in
Amended and Restated Bylaws**

AMENDED AND RESTATED BYLAWS OF

DBM GLOBAL INC.

(formerly known as SCHUFF INTERNATIONAL, INC.)

**ARTICLE 1
OFFICES**

Section 1.1 Registered Office. The registered office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware.

Section 1.2 Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors or the officers may from time to time determine.

**ARTICLE 2
MEETINGS OF STOCKHOLDERS**

Section 2.1 Place of Meetings. Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware, or by means of remote communication, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2.2 Annual Meetings. The annual meetings of stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which meetings the stockholders shall elect by a plurality vote members of the Board of Directors ~~in the class whose term shall expire at such annual meeting~~, and transact such other business as may properly be brought before the meeting. Written notice of the annual meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten nor more than sixty days before the date of the meeting. The Board of Directors may cancel, postpone or reschedule any previously scheduled annual meeting at any time, before or after the notice for such meeting has been sent to the stockholders.

Section 2.3 Special Meetings. Subject to the rights of the holders of any series of preferred stock, par value \$0.001 per share, of the Corporation (the "Preferred Stock") or any other series or class of stock as set forth in the Certificate of Incorporation, special meetings of the stockholders may be called for any purpose ~~only~~ by the Board of Directors, Chairman of the Board, ~~or the President~~, or upon the written request of stockholders, stating the purpose or purposes of the meeting, signed by the holders of at least fifty percent (50%) of the voting power of the issued and outstanding stock entitled to vote at such meeting, and shall be called by the Chairman of the Board or the President pursuant to a resolution adopted by a majority of the entire Board of Directors. ~~As used in this Article and in these By-Laws generally, the term "entire Board of Directors" means the total number of directors which the Corporation would have if there were no vacancies.~~

Section 2.4 Quorum. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the capital stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the stockholders, a majority of the stockholders entitled to vote, and present in person, by electronic communication, or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given not less than ten nor more than sixty days before the date of the adjourned meeting to each stockholder entitled to vote at the meeting.

Section 2.5 Voting. Unless otherwise required by law, the Certificate of Incorporation or these By-Laws, any question brought before any meeting of stockholders shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote thereat. Each stockholder represented at a meeting of stockholders shall be entitled to cast one vote for each share of the capital stock entitled to vote held by such stockholder. Votes may be cast in person or by proxy but no proxy may be voted on or after three years from its date, unless such proxy provides for a longer period. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in such officer's discretion, may require that any votes cast at such meeting be cast by written ballot.

Section 2.6 List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten 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 stockholder of the Corporation who is present.

Section 2.7 Stock Ledger. The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 2.6 or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders. Any good faith decision in regard to such matters by the officer of the Corporation who has charge of the stock ledger of the Corporation, which may be the Secretary, any Assistant Secretary or any other appropriate officer of the Corporation designated by the Board of Directors shall be final.

Section 2.8 Nomination of Directors. With the exception of persons elected to the Board of Directors by written consent in lieu of holding an annual meeting of stockholders pursuant to 8 Del. C. § 211(b), ~~Only~~ persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation. Nominations of persons for election to the Board of Directors may be made at any annual meeting of stockholders (a) by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (b) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.8 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (ii) who gives timely notice in proper written form to the Secretary of the Corporation, as prescribed below.

To be timely, a stockholder's notice must be delivered to or mailed and received by the Secretary of the Corporation at least 120 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, ~~that with respect to the annual meeting to be held in 1997, the anniversary date shall be deemed to be May 15, 1997; and further provided, however,~~ that in the event that the annual meeting is called for a date that is not within 30 days before or after such anniversary date, notice by the stockholder in order to be timely must be received not later than the close of business on the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs.

To be in proper written form, a stockholder's notice to the Secretary must set forth (i) the name and address of the stockholder who intends to make the nomination and of the person or persons to be nominated; (ii) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting (including the number of shares of stock of the Corporation owned beneficially or of record by such stockholder and the nominee or nominees) and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (iii) a description of all arrangements or understandings between the stockholders and each nominee and any other person or persons (naming such person or persons and identifying the number of shares of stock of the Corporation owned beneficially or of record by such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (iv) such other information regarding each nominee proposed by such stockholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission had each nominee been nominated, or intended to be nominated, by the Board of Directors; ~~and~~ (v) the consent of each nominee to serve as a director of the Corporation if so elected; and (vi) for each nominee, a particular signed and completed form of questionnaire disclosing certain personal information and potential conflicts of the nominee in question. This form of questionnaire may be obtained from the Corporation only by a stockholder of record, and the Corporation shall provide this form within ten (10) business days after receiving an official written request from any stockholder of record. Under no circumstance shall the Corporation be required to send this form of questionnaire to any person who is not a stockholder of record.

The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

With the exception of persons elected to the Board of Directors by written consent in lieu of holding an annual meeting of stockholders pursuant to 8 Del. C. § 211(b) and subject to the below exception, no person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 2.8. If the ~~Chairman of~~ Board of Directors ~~the meeting~~ determines that a nomination was not made in accordance with the foregoing procedures, the ~~Chairman~~ Board of Directors shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded. Notwithstanding compliance with the foregoing provisions, the Board of Directors shall not be obligated to include information as to any stockholder nominee for director in any proxy statement or other communication sent to stockholders, except as provided by applicable law.

Notwithstanding anything to the contrary contained in this Section 2.8 or Section 2.9 below, for as long INNOVATE Corp. or any affiliates thereof, control at least 50% of the Corporation's outstanding stock entitled to vote, INNOVATE Corp. and any affiliates thereof shall not be subject to the notice or other procedures set forth in this Section 2.8 or Section 2.9 with respect to any annual or special meeting of stockholders.

Section 2.9 Business at Annual Meetings. No business may be transacted at an annual meeting of stockholders, other than business that is either (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (b) otherwise properly brought before the annual meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (c) otherwise properly brought before the annual meeting by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.9 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (ii) who gives timely notice in proper written form to the Secretary of the Corporation, as prescribed below.

To be timely, a stockholder's notice must be delivered to or mailed and received by the Secretary of the Corporation at least 120 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that ~~with respect to the annual meeting to be held in 1997, the anniversary date shall be deemed to be May 15, 1997; and further provided, however, that~~ in the event that the annual meeting is called for a date that is not within 30 days before or after such anniversary date, notice by the stockholder in order to be timely must be received not later than the close of business on the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs.

To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter such stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting; (ii) the name and record address of such stockholder; (iii)

the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by such stockholder; (iv) a description of all arrangements or understandings between such stockholder and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder in such business; and (v) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.

The Corporation may require any stockholder to furnish such other information as it may reasonably require.

No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.9. If the ~~Chairman~~ Board of Directors of the meeting determines that business was not properly brought before the annual meeting in accordance with the foregoing procedures, the Board of Directors ~~Chairman~~ shall declare to the meeting that the business was not properly brought before the meeting and such business ~~shall not be~~ transacted. Notwithstanding compliance with the foregoing provisions, the Board of Directors shall not be obligated to include information as to any stockholder business or proposals in any proxy statement or other communication sent to stockholders, except as provided by applicable law.

Section 2.10 Stockholder Action by Written Consent. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any annual or special meeting of the stockholders 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 and shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which minutes of proceedings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall, to the extent required by law, be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation.

No written consent shall be effective to take the corporate action referred to therein unless written consents signed by a sufficient number of stockholders to take action are delivered to the Corporation in the manner prescribed in this Section 2.10 and applicable law within 60 days of the first date on which a written consent is so delivered to the Corporation

ARTICLE 3 DIRECTORS

Section 3.1 Duties and Powers. The business and affairs of the Corporation shall be managed and controlled by a Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 3.2 Number. The first Board of Directors shall consist of the persons named in the Certificate of Incorporation. Thereafter, the Board shall consist of not less than one (1) nor more than nine (9) members. The Board of Directors will have the power to increase or decrease its size subject to these limits and to fill any vacancies that may occur in its membership, whether resulting from an increase in the size of the Board or otherwise.

Section 3.3 Election of Directors. Directors shall be elected by a plurality of the votes cast at annual meetings of stockholders or special meetings called for that purpose. Any director may resign at any time upon notice to the Corporation. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Directors need not be stockholders of the Corporation. Each director elected shall hold office until his or her successor is duly elected and qualified, or until he or she resigns or is removed as a director, whichever occurs first.

Section 3.4 Meetings. The Board of Directors of the Corporation may hold meetings both regular and special, either within or without the State of Delaware. Regular meetings of the Board of Directors may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman ~~or the President~~ or by a majority of the directors then in office. Notice thereof stating the place, date and hour of the meeting shall be given to each director either by mail in writing or by electronic transmission not less than 48 hours before the date of the meeting ~~or orally, either in person or by telephone, facsimile or telegram~~ on 24 hours' notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances.

Section 3.5 Quorum. Except as may be otherwise specifically provided by law, the Certificate of Incorporation or these By-Laws, at all meetings of the Board of Directors, a majority of the total number of authorized directors ~~Board of Directors~~ shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. " means the total number of directors which the Corporation would have if there were no vacancies. If a quorum shall not be present at any meeting of the Board of Directors, the directors present at that meeting may adjourn the meeting, without notice other than announcement at the meeting, until a quorum is present.

Section 3.6 Actions of Board. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board

of Directors or of any committee thereof may be taken without a meeting, if all the members of the Board of Directors or committee, as the case may be, consent thereto in writing, or by electronic transmission, and the ~~writing or writings~~consent or consents are filed with the minutes of proceedings of the Board of Directors or committee.

Section 3.7 Meetings by Means of Conference Telephone. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, members of the Board of Directors of the Corporation, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 3.7 shall constitute presence in person at such meeting.

Section 3.8 Committees. The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate one or more committees, each committee to consist 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 any such committee. In the event of the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. A majority of the members of a committee, including any alternate members, shall constitute a quorum of such committee. Any committee, to the extent allowed by law and provided in the resolution establishing such committee, 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; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation of the Corporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, adopting, amending or repealing any By-Laws of the Corporation, or approving or adopting, or recommending to the stockholders, any other action or matter expressly required by law or the Certificate of Incorporation to be submitted to stockholders for approval; and, unless the resolution expressly so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Each committee shall keep regular minutes and report to the Board of Directors when required.

Section 3.9 Compensation. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings. In addition, the Board of Directors may adopt one or more director compensation plans using securities of the Corporation.

Section 3.10 Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation,

partnership, association, or other organization in which one or more of the Corporation's directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because such director's vote is counted for such purpose if (i) the material facts as to such director's relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to such director's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by a vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof, or the stockholders. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a Committee that authorizes the contract or transaction.

Section 3.11 Removal of Directors. A director may be removed, with or without cause, at any time by the affirmative vote of a majority in voting power of the outstanding capital stock of the Corporation then entitled to vote at an election of directors, at a special meeting of the stockholders called for the purpose, or by written consent. The vacancy in the Board of Directors caused by any such removal shall be filled by (i) the Board of Directors or (ii) by a stockholder written consent.

ARTICLE 4 OFFICERS

Section 4.1 General. The officers of the Corporation shall be chosen by the Board of Directors and may include a President, a Secretary, and a Treasurer. The Board of Directors, in its discretion, may also choose a Chairman of the Board of Directors (who must be a director) and one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers. Any number of offices may be held by the same person, unless otherwise prohibited by law, the Certificate of Incorporation or these By-Laws. The officers of the Corporation need not be stockholders of the Corporation nor, except in the case of the Chairman of the Board of Directors, directors of the Corporation. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the Board of Directors may authorize any officer or officers, or agent or agents, to enter into any contract or execute any document or instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount. The officers of the Corporation may sign and execute documents on behalf of the Corporation, whether requiring a seal or otherwise, when authorized by these By-Laws, the Board of Directors, the Chairman or President

Section 4.2 Election. ~~The Board of Directors at its first meeting held after each annual meeting of stockholders shall elect the officers of the Corporation 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; and all officers of the Corporation shall hold office until their successors are chosen and qualified, or until their earlier resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors. The salaries of all officers of the Corporation shall be fixed by the Board of Directors or by a committee thereof.~~

Section 4.3 Voting Securities Owned by the Corporation. ~~Unless the Board of Directors instructs otherwise,~~ powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chairman, President or any Vice President and any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

Section 4.4 Chairman of the Board of Directors. ~~The Chairman of the Board of Directors, if there be one, may shall~~ preside at all meetings of the stockholders and of the Board of Directors. ~~The Chairman may be the Chief Executive Officer of the Corporation, and except where by law the signature of the President is required, the Chairman of the Board of Directors shall possess the same power as the President to sign all contracts, certificates and other instruments of the Corporation which may be authorized by the Board of Directors. During the absence or disability of the President, the Chairman of the Board of Directors shall exercise all the powers and discharge all the duties of the President. The Chairman of the Board of Directors shall also perform such other duties and may exercise such other powers as from time to time may be assigned to the Chairman by these By-Laws or by the Board of Directors. All officers of the Corporation shall be under the supervision of the Chairman~~Board of Directors, ~~if there be one,~~ and shall perform all such duties as shall be assigned by the Chairman~~Board of Directors.~~

Section 4.5 President. ~~The President, if there shall be one, shall, subject to the control of the Board of Directors and, if there be one, the Chairman of the Board of Directors,~~ have general supervision of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. In the event of the absence or disability of the Chairman of the Board of Directors, or if there be none, the President shall perform such other duties and may exercise such other powers as from time to time may be assigned to the President by these By-Laws, or by the Board of Directors ~~or by the Chairman.~~

Section 4.6 Vice Presidents. ~~At the request of the Board or Directors or the President or in the President's absence or in the event of the President's inability or refusal to act (and if there be no Chairman of the Board of Directors), the Vice President or the Vice Presidents if there is more than one (in the order designated by the Board of Directors) shall perform the duties of the~~

President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Each Vice President shall perform such other duties and have such other powers as the Board of Directors, ~~Chairman~~ and/or the President from time to time may prescribe.

Section 4.7 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of stockholders and record all the proceedings thereat in a book or books to be kept for that purpose; the Secretary shall also perform like duties for the standing committees when requested or appropriate. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors, ~~Chairman~~ or President. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the stockholders and special meetings of the Board of Directors, and if there be no Assistant Secretary, then ~~either the Board of Directors or the President~~ may choose another officer to cause such notice to be given. The Secretary shall have custody of the seal of the Corporation, if there is one, and the Secretary or any Assistant Secretary, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by such officer's signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

Section 4.8 Treasurer. The Treasurer shall supervise the maintenance of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors or Chairman. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, ~~Chairman~~ or President, and shall render to the ~~Chairman~~ President and the Board of Directors, at regular meetings of the Board of Directors, or when the Board of Directors ~~or Chairman~~ so requires, an account of all transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall perform such other duties and have such powers as the Board of Directors, ~~Chairman~~ or President from time to time may prescribe. If required by the Board of Directors ~~or Chairman~~, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors ~~or Chairman~~ for the faithful performance of the duties of such office and for the restoration to the Corporation, in case of the Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in the Treasurer's possession or under such officer's control belonging to the Corporation.

Section 4.9 Assistant Secretaries. Assistant Secretaries, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, ~~the Chairman~~, the President, any Vice President, if there be one, or the Secretary, and in the absence of the Secretary or in the event of such officer's disability or refusal to act, shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

Section 4.10 Assistant Treasurers. Assistant Treasurers, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, ~~the Chairman~~, the President, any Vice President, if there be one, or the Treasurer, and in the absence of the Treasurer or in the event of such officer's disability or refusal to act, shall perform the duties of the Treasurer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Treasurer. If required by the Board of Directors ~~or Chairman~~, an Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors ~~or Chairman~~ for the faithful performance of the duties of such officer's office and for the restoration to the Corporation, in case of the Assistant Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in such officer's possession or under such officer's control belonging to the Corporation.

Section 4.11 Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, ~~Chairman~~, or President. The Board of Directors may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

ARTICLE 5 STOCK

Section 5.1 Form of Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate signed in the name of the Corporation (i) by the Chairman of the Board of Directors, the President or a Vice President and (ii) by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by such holder in the Corporation.

Section 5.2 Signatures. When a certificate is countersigned by (i) a transfer agent other than the Corporation or its employee, or (ii) a registrar other than the Corporation or its employee, any other signature on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Section 5.3 Lost Certificates. The Secretary may direct a new certificate to be issued in place of any certificate issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing the issuance of a replacement certificate, the Secretary may, in such officer's discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or such owner's legal representative, to advertise the same in such manner as the Secretary shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 5.4 Transfers. Stock of the Corporation may be transferred in the manner prescribed by law and in these By-Laws. Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate or by such person's attorney lawfully constituted in writing and upon the surrender of the certificate therefor, which shall be canceled before a new certificate shall be issued.

Section 5.5 Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, 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 exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 days nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. 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, however, that the Board of Directors may fix a new record date for the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall be not more than ten (10) days after the date upon which the resolution fixing the record date is adopted. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary of the Corporation, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors and no prior action by the Board of Directors is required by the Delaware General Corporation Law ("DGCL"), the record date shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by the DGCL with respect to the proposed action by written consent of the stockholders, the record date for determining stockholders entitled to consent to corporate action in writing shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 5.6 Beneficial Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

ARTICLE 6 NOTICES

Section 6.1 Notices. Whenever written notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, such notice shall be in writing and may (a) in every instance in connection with any

delivery to a member of the Board, be effectively given by hand delivery (including use of a delivery service), by depositing such notice in the mail, postage prepaid, or by sending such notice by prepaid overnight express courier, facsimile, electronic mail or other form of electronic transmission and (b) effectively be delivered to a stockholder when given by hand delivery, by depositing such notice in the mail, postage prepaid or by sending such notice by electronic transmission in accordance with Section 232 of the DGCL. Any such notice shall be addressed to the person to whom notice is to be given at such person's address as it appears on the records of the Corporation. Except as otherwise provided by law, the notice shall be deemed given (a) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (b) in the case of delivery by mail, upon deposit in the mail, postage prepaid, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via electronic mail or other form of electronic transmission, when dispatched, may be given by mail, addressed to such director, member of a committee or stockholder, at such person's address as it appears on the records of the Corporation, with postage thereon prepaid or such notice may be given personally, by facsimile, a overnight delivery, telegram, telex, or cable at such address. Such notice shall be deemed to be given at the earlier of receipt of such notice or at the time when the same shall be deposited in the United States mail or otherwise transmitted.

Section 6.2 Electronic Transmission. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission in accordance with the Section 232 of the DGCL.

Section 6.3 Affidavit of Giving Notice. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 6.4~~2~~ Waivers of Notice. Whenever any notice is required by law, the Certificate of Incorporation, or these Bylaws~~the committee or stockholder,~~ a waiver thereof in writing (including by electronic transmission), signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE 7 GENERAL PROVISIONS

Section 7.1 Dividends. Dividends upon the capital stock of the Corporation, subject to applicable law and the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, and may be paid in cash, in property, or in shares of the capital stock. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves for any proper purpose, and the Board of Directors may modify or abolish any such reserve.

Section 7.2 Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 7.3 Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 7.4 Corporate Seal. The Corporation may have a corporate seal, which shall have inscribed thereon the words "Corporate Seal". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. However, nothing in these By-Laws or in the Certificate of Incorporation of the Corporation shall be construed to require a corporate seal to be affixed to any document.

Section 7.5 Severability. If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Certificate of Incorporation, then such provision shall, to the fullest extent permitted by law, be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

Section 7.6 Form of Records. Any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the DGCL.

Section 7.7 Forum for Certain Actions. To the fullest extent permitted by applicable law:

(A) Unless the corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another State court in Delaware or the federal district court for the District of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by, or otherwise wrongdoing by, any director, stockholder, officer or other employee of the corporation to the corporation or the corporation's stockholders, (iii) any action arising pursuant to any provision of the DGCL or the Certificate of Incorporation or these Bylaws (as either may be amended from time to time), (iv) any action to interpret, apply, enforce or determine the validity of the Certificate of Incorporation or these Bylaws (as either may be amended from time to time), or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the DGCL, except for, as to each of (i) through (v) above, any claim as to which such court determines that there is an indispensable party not subject to the jurisdiction of such court (and the indispensable party does not consent to the personal jurisdiction of such court within ten (10) days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than such court, or for which such court does

not have subject matter jurisdiction. For the avoidance of doubt, this Section 7.7 shall not apply to any action brought to enforce a duty or liability created by the Securities Act of 1933, or any successor thereto (the "Securities Act") or the 1934 Act.

(B) Unless the corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

Section 7.8 Construction. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes a corporation, partnership, limited liability company, joint venture, trust or other enterprise, and a natural person. Any reference in these Bylaws to a section of the DGCL shall be deemed to refer to such section as amended from time to time and any successor provisions thereto.

ARTICLE 8 AMENDMENTS

Section 8.1 These By-Laws may be altered, amended or repealed, in whole or in part, or new By-Laws may be adopted by the stockholders, subject to the provisions of the Certificate of Incorporation, or by the Board of Directors; provided, however, that notice of such alteration, amendment, repeal or adoption of new By-Laws be contained in the notice of such meeting of stockholders or Board of Directors as the case may be. If such amendments are enacted via written consent, notice shall be provided pursuant to Section 6.1.