

PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, New York 10019  
Tel: 212-373-3000  
Fax: 212-757-3990  
Paul M. Basta  
Lewis R. Clayton  
Jacob A. Adlerstein  
Claudia R. Tobler

*Counsel for Debtors  
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
CUMULUS MEDIA INC., <i>et al.</i> ,	:	Case No. 17-13381 (SCC)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
	:	
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**NOTICE OF FILING OF SECOND SUPPLEMENT TO THE PLAN SUPPLEMENT**

**PLEASE TAKE NOTICE** that on February 2, 2018, the United States Bankruptcy Court for the Southern District of New York (the “Court”) entered the order [ECF No. 416] (the “Disclosure Statement Order”): (a) authorizing Cumulus Media Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”), to solicit acceptances for the *First Amended Joint Plan of Reorganization of Cumulus Media Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [ECF No. 446] (as the same may be updated, supplemented, amended and/or otherwise modified from time to time, the “Plan”);<sup>2</sup> (b) approving the *Disclosure Statement for the First Amended Joint Plan of Reorganization of Cumulus Media Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [ECF No. 447] (as the same may be updated, supplemented, amended and/or otherwise modified from time to time, the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the

<sup>1</sup> The last four digits of Cumulus Media Inc.’s tax identification number are 9663. Because of the large number of Debtors in these chapter 11 cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <http://dm.epiq11.com/cumulus>. The location of the Debtors’ service address is: 3280 Peachtree Road, N.W., Suite 2200, Atlanta, Georgia 30305.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Plan.

solicitation packages; and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

**PLEASE TAKE FURTHER NOTICE** that, as contemplated by the Plan and the Disclosure Statement Order, the Debtors filed the *Notice of Filing of Plan Supplement* [ECF No. 555] (the “Original Plan Supplement”) with the Court on March 16, 2018. The Original Plan Supplement contained the following documents (each as defined in the Plan): (a) the New Corporate Governance Documents for the Reorganized Debtors; (b) the Schedule of Rejected Executory Contracts and Unexpired Leases; (c) the list of retained Causes of Action; (d) the members of the New Cumulus Board and Officers of the Reorganized Debtors; (e) the Description of Transaction Steps; (f) the Reorganized Debtors’ Management Incentive Plan; (g) the First Lien Exit Credit Agreement; (h) the Warrant Agreement; and (i) the Equity Allocation Mechanism.

**PLEASE TAKE FURTHER NOTICE** that, as contemplated by the Plan and the Disclosure Statement Order, the Debtors filed the *Notice of Filing of First Supplement to the Plan Supplement* [ECF No. 677] (the “First Supplement”) with the Court on March 12, 2018. The First Supplement contained the following documents: (a) the New Corporate Governance Documents for the Reorganized Debtors; (b) the Schedule of Rejected Executory Contracts and Unexpired Leases; (c) the list of retained Causes of Action; (d) the members of the New Cumulus Board and Officers of the Reorganized Debtors; (e) the Description of Transaction Steps; (f) the First Lien Exit Credit Agreement; (g) the Warrant Agreement; (h) the Equity Allocation Mechanism; (i) the Disclosure Regarding Convenience Class Cap; and (j) the Equity and Asset Transfer Agreement.

**PLEASE TAKE FURTHER NOTICE** that, as contemplated by the Plan and the Disclosure Statement Order, the Debtors hereby file the *Notice of Filing of Second Supplement to the Plan Supplement* (the “Second Supplement”) which contains the following documents, as may be modified, amended, or supplemented from time to time:

**Exhibit A: New Corporate Governance Documents for Reorganized Debtors**

**PLEASE TAKE FURTHER NOTICE** that attached to the Second Supplement are also redlines reflecting modifications between documents filed as **Exhibit A** to the Original Plan Supplement and documents filed as **Exhibit A** to the Second Supplement.

**PLEASE TAKE FURTHER NOTICE** that a hearing to consider the confirmation of the Plan (and in conjunction therewith, approval of the Second Supplement) (the “Confirmation Hearing”) commenced on **April 12, 2018 at 11:00 a.m. (prevailing Eastern Time)** and is scheduled to conclude on **May 1, 2018** before the Honorable Judge Shelley E. Chapman, United States Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of New York, at One Bowling Green, Room 623, New York, New York 10004. The Confirmation Hearing may be continued from time to time without further notice other than the announcement by the Debtors in open court of the adjournment date(s) at the Confirmation Hearing or any continued hearing.

**PLEASE TAKE FURTHER NOTICE** that copies of the Second Supplement as well as copies of all documents filed in these chapter 11 cases are available free of charge by visiting <http://dm.epiq11.com/cumulus> or by calling (844) 429-1668 within the United States or Canada or, outside of the United States or Canada, by calling +1 (503) 597-5529. You may also obtain copies of any pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

**Certain documents, or portions thereof, contained in the Second Supplement remain subject to continuing negotiations among the Debtors and interested parties with respect thereto. The Debtors reserve all rights with respect to the Second Supplement and the documents contained therein which are subject to continuing negotiations. The Debtors reserve all rights to amend, modify, or supplement the Second Supplement and any of the documents contained therein, subject to the terms of the Plan and the Restructuring Support Agreement. To the extent material amendments or modifications are made to any of the Second Supplement documents, the Debtors will file a blackline with the Court marked to reflect same.**

Dated: April 12, 2018  
New York, New York

PAUL, WEISS, RIFKIND, WHARTON  
& GARRISON LLP

/s/ Paul M. Basta

Paul M. Basta

Lewis R. Clayton

Jacob A. Adlerstein

Claudia R. Tobler

1285 Avenue of the Americas

New York, New York 10019

Telephone: (212) 373-3000

Facsimile: (212) 757-3990

pbasta@paulweiss.com

lclayton@paulweiss.com

jadlerstein@paulweiss.com

ctobler@paulweiss.com

*Counsel for Debtors and  
Debtors in Possession*

**Exhibits to the Second Supplement**

**Exhibit A: New Corporate Governance Documents for Reorganized Debtors**

**EXHIBIT A**

**New Corporate Governance Documents for Reorganized Debtors**

This Exhibit A includes the following modified organizational documents for the Reorganized Debtors:

1. Exhibit A-1 Amended and Restated Certificate of Incorporation of Cumulus Media Inc.
2. Exhibit A-2 Bylaws of Cumulus Media Inc.

**Exhibit A-1**

**Amended and Restated Certificate of Incorporation of Cumulus Media Inc.**

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
CUMULUS MEDIA INC.**

Cumulus Media Inc., a corporation organized and existing under the laws of the state of Delaware, hereby certifies as follows:

1. The name of the corporation is "Cumulus Media Inc." (referred to herein as the "Company").
2. The Certificate of Incorporation of the Company was originally filed with the Secretary of State of the State of Delaware on April 9, 2018 in the name of "CM Emergence Newco Inc."
3. This Amended and Restated Certificate of Incorporation amends and restates the provisions of the certificate of incorporation of the Company as heretofore amended (the "Certificate of Incorporation"), and been duly adopted in accordance with the provisions of Sections 242, 245 and 303 of the DGCL.
4. The text of the Certificate of Incorporation of the Company is hereby amended and restated to read in its entirety as follows:

**ARTICLE I.**

**NAME**

The name of the Company is Cumulus Media Inc.

**ARTICLE II.**

**REGISTERED AGENT AND REGISTERED OFFICE**

The registered agent of the Company is The Corporation Trust Company and the registered office of the Company is located at Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

**ARTICLE III.**

**PURPOSE**

The purpose or purposes for which the Company is organized is the transaction of any or all lawful business for which corporations may be incorporated under the DGCL. The Company shall have perpetual existence.

**ARTICLE IV.**

**AUTHORIZED SHARES**

The aggregate number of shares which the Company is authorized to issue is [\_\_\_\_], consisting of: (i) [\_\_\_\_] shares designated as Class A Common Stock, \$0.0000001 par value per share (hereinafter referred to as the "Class A Common Stock"); (ii) [\_\_\_\_] shares designated as Class B



Common Stock, \$0.0000001 par value per share (hereinafter referred to as the “Class B Common Stock”); and (iii) [ ] shares of Preferred Stock, \$0.0000001 par value per share (hereinafter referred to as the “Preferred Stock”). The Class A Common Stock and Class B Common Stock shall be referred to collectively herein as the “Common Stock”.

## ARTICLE V.

### TERMS OF COMMON STOCK

Except with regard to voting and conversion rights, shares of Class A Common Stock and Class B Common Stock are identical in all respects. The preferences, qualifications, limitations, restrictions, and the special or relative rights in respect of the Common Stock and the various classes of Common Stock shall be as follows:

#### SECTION 1. VOTING RIGHTS.

##### (a) General Rights.

(i) The holders of shares of Class A Common Stock shall be entitled to one vote for each share of Class A Common Stock held on the record date therefor on any matter submitted to a vote of the stockholders of the Company. Except as may be required by law or by Section 1(a)(ii) or Section 1(a)(iii) of this Article V, the holders of shares of Class B Common Stock shall not be entitled to vote on any matter submitted to a vote of the stockholders of the Company.

(ii) Notwithstanding Section 1(a)(i) of this Article V, holders of Class B Common Stock shall be entitled to a separate class vote on any amendment or modification of any specific rights or obligations of the holders of Class B Common Stock that does not similarly affect the rights or obligations of the holders of Class A Common Stock.

(iii) If and only if any of the following actions are submitted to a vote of the holders of Common Stock, each share of Class B Common Stock shall be entitled to vote with the Class A Common Stock, with each share of Common Stock having one vote and voting together as a single class (provided, that, for the avoidance of doubt, nothing contained in this Section 1(a)(iii) shall be construed to prohibit the Company from taking any action set forth in the following clauses (a) through (f) without a vote of the stockholders of the Company to the extent permitted by applicable law):

- (a) the retention or dismissal of outside auditors by the Company;
- (b) any dividends or distributions to the stockholders of the Company;
- (c) any material sale of assets, recapitalization, merger, business combination, consolidation, exchange of stock or other similar reorganization involving the Company or any of its subsidiaries;
- (d) the adoption of any new or amended Certificate of Incorporation;
- (e) other than in connection with any management equity or similar plan adopted by the Board of Directors of the Company, any authorization or issuance of equity interests, or any security or instrument convertible into or exchangeable for equity interests, in the Company or any of its subsidiaries; and

(f) the liquidation of the Company or any of its subsidiaries.

(b) No Action by Stockholders Without a Meeting. All actions of the stockholders of the Company must be taken at an annual or special meeting of the stockholders of the Company and may not be taken by written consent without a meeting.

(c) Special Meeting of Stockholders. Special meetings of stockholders of the Company may be called (i) pursuant to a resolution adopted by the Board of Directors or (ii) by the Board of Directors upon the demand, in accordance with procedures in Section 2.3 of the bylaws of the Company, of the holders of record of shares representing at least 25% of all the votes entitled to be cast on any issue proposed to be considered at the special meeting.

## SECTION 2. DIVIDENDS.

Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, the holders of Common Stock shall be entitled to receive when, as and if declared by the Board of Directors of the Company, from funds lawfully available therefor, such dividends as may be declared by the Board of Directors of the Company from time to time. When and as dividends are declared on Common Stock, the holders of shares of each class of Common Stock will be entitled to share ratably in such dividend according to the number of shares of Common Stock held by them; provided, however, that in the case of dividends payable on Common Stock in shares of Common Stock, only Class A Common Stock will be issued with respect to dividends paid on Class A Common Stock and only Class B Common Stock will be issued with respect to dividends paid on Class B Common Stock. In the event any class of Common Stock is split, divided or combined, each other class of Common Stock simultaneously shall be proportionately split, divided or combined. The holders of shares of Common Stock and, to the extent required by the warrant agreement or agreements, entered into between the Company and the warrant agent thereunder on or about [\_\_\_\_], 2018 (as amended, modified or otherwise restated from time to time, collectively, the "Warrant Agreements"), the holders of warrants issued pursuant to the Warrant Agreements (the "Warrants") shall be entitled to participate in such dividends ratably on a per share basis (in the case of holders of Warrants, based upon their ownership of Class A or Class B Common Stock, as the case may be, underlying their Warrants on an as-exercised basis); provided, that no such distribution shall be made to holders of Warrants, Class A Common Stock or Class B Common Stock if (i) a Federal Communications Commission ("FCC") ruling, regulation or policy prohibits such distribution to holders of Warrants or (ii) the Company's FCC counsel opines that such distribution is reasonably likely to cause (a) the Company to violate any applicable FCC rules or regulations or (b) any such holder of Warrants to be deemed to hold an attributable interest in the Company.

## SECTION 3. LIQUIDATION, DISSOLUTION OR WINDING-UP.

In the event of any liquidation, dissolution or winding up of the Company, whether voluntarily or involuntarily, after payment or provision for payment of the debts and other liabilities of the Company and the preferential amounts to which the holders of any shares ranking prior to the Common Stock in the distribution of assets shall be entitled upon liquidation, the holders of shares of the Class A Common Stock and the Class B Common Stock shall be entitled to share pro rata in the remaining assets of the Company in proportion to the respective number of shares of Common Stock held by each holder compared to the aggregate number of shares of Common Stock outstanding.

#### SECTION 4. MERGER OR CONSOLIDATION.

In the event of a merger or consolidation of the Company, shares of Class A Common Stock and Class B Common Stock shall be treated identically, except with respect to voting and conversion rights as specifically described in this Article V; provided, however, that, except where the Class A Common Stock and the Class B Common Stock are to remain outstanding, the consideration received for each share of Class A Common Stock and Class B Common Stock as part of any such merger or consolidation shall be identical.

#### SECTION 5. CONVERTIBILITY, TRANSFERS.

(a) Conversion of Class B Common Stock. Each holder of Class B Common Stock is entitled to convert at any time or times all or any of such holder's whole shares of Class B Common Stock into an equal number of shares of Class A Common Stock; provided, however, that to the extent that such conversion would result in the holder holding more than 4.99% of the outstanding shares of Class A Common Stock following such conversion, the holder shall first deliver to the Company an ownership certification in form and substance reasonably satisfactory to the Company for the purpose of enabling the Company (a) to determine that such holder does not have an attributable interest in another entity that would cause the Company to violate the Communications Act or FCC Regulations, and (b) to obtain any necessary approvals from the FCC or the United States Department of Justice. For the avoidance of doubt, the conversion rights provided by this Article V, Section 5 shall apply to whole shares of Class B Common Stock only, and the Company shall have no obligation to honor a request for conversion of a fraction of a share of Class B Common Stock. Notwithstanding anything to the contrary contained herein, the Company shall not be required to convert any share of Class B Common Stock if the Company reasonably and in good faith determines that such conversion would result in a violation of the Communications Act, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or the rules and regulations promulgated under either such Act.

(b) Condition Precedent to Conversion. As a condition precedent to any conversion of any shares of Class B Common Stock, the holder shall give the Company not less than five (5) business days' prior written notice of any intended conversion and the identity of the Person who will hold the converted shares, and shall promptly provide the Company, in addition to the information required by Section 5(a), with any information reasonably requested by the Company to ensure compliance with applicable law.

(c) Conversion.

(i) Effective Time and Deliveries upon Conversion. Upon delivery of a notice of conversion in conformity with the foregoing provisions, the Company shall thereupon, as promptly as reasonably practicable, and in any event within five business days after receipt by the Company of such notice of conversion, make or cause to be made a book entry into the stock ledger of the Company for the aggregate number of shares of Class A Common Stock issuable upon such conversion (based upon the aggregate number of shares of Class B Common Stock so converted). Any share of Class B Common Stock converted hereunder shall, to the extent (A) such shares are properly converted in accordance with the terms hereof, (B) the Company has made a reasonable and good faith determination that such conversion does not violate the Communications Act or FCC Regulations and (C) subject to Section 5(a) of this Article V and Section 6 of this Article V, below, be deemed to have been effected immediately prior to the close of business on the day on which the notice of conversion shall have been delivered to the Company. At such time, the book entry into the stock ledger of the Company for the shares of Class A Common Stock issuable upon such conversion shall be deemed to have been made, and the holder thereof shall be deemed to be and entitled to all rights of the holder of record of such Class A Common Stock.

(ii) No Adverse Action. The Company will, subject to the provisions of this Section 5 and Section 6, below, (i) not close its books against the transfer of Class A Common Stock issued or issuable upon conversion of Class B Common Stock in any manner which interferes with the timely conversion of Class B Common Stock, and (ii) take all such actions as are reasonably necessary in order to ensure that the Class A Common Stock issued or issuable with respect to such conversion will be validly issued, fully paid and non-assessable.

(iii) Sufficient Shares. The Company shall at all times have authorized, reserved and set aside a sufficient number of shares of Class A Common Stock for the conversion of all shares of Class B Common Stock then outstanding.

(d) Condition Precedent to Transfers. As a condition precedent to any transfers of record or beneficial ownership of any Capital Stock which would cause a transferee and its Affiliates to, solely as a result of such transfer, together hold of record or beneficially, in excess of 4.99% of any class of the Company's Capital Stock, the transferor shall give the Company not less than five (5) business days' prior written notice of any intended transfer and the identity of the Person who will be the transferee, and shall promptly provide the Company with any information reasonably requested by the Company to ensure compliance with applicable law.

(e) Automatic Conversion upon exercise or exchange of Warrants. Upon (i) the exercise of any warrants (the "Initial Warrants") issued pursuant to that certain Warrant Agreement, dated as of [ ], 2018, by and between the Company and [ ], as warrant agent, (the "Initial Warrant Agreement"), for shares of Class A Common Stock or (ii) the exchange of any Initial Warrants for shares of Class A Common Stock, in each case in accordance with Section 9.16 of the Initial Warrant Agreement, an equal number of shares of Class B Common Stock shall first be issued to the exercising or exchanging holder, clauses (a) through (d) of this Section 5 shall be deemed to be complied with by virtue of exercising or exchanging the Initial Warrant in accordance with the provisions of the Initial Warrant Agreement and such shares of Class B Common Stock shall immediately and automatically convert into an equal number of shares of Class A Common Stock without any further action by the holder of the Initial Warrant.

#### SECTION 6. FCC MATTERS.

To the extent necessary to comply with the Communications Act and FCC Regulations, the Board of Directors may (i) take any action it believes necessary to prohibit the ownership or voting of more than 22.50% (or such higher number as may be approved by the FCC after the date of this Amended and Restated Certificate of Incorporation) of the Company's outstanding Capital Stock by or for the account of aliens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country (collectively "Aliens"), or by any other entity (a) that is subject to or deemed to be subject to control by Aliens on a *de jure* or *de facto* basis or (b) owned by, or held for the benefit of, Aliens in a manner that would cause the Company to be in violation of the Communications Act or FCC Regulations; (ii) prohibit any transfer of the Company's stock which the Company believes could cause more than 22.50% (or such higher number as may be approved by the FCC after the date of this Amended and Restated Certificate of Incorporation) of the Company's outstanding Capital Stock to be owned or voted, directly or indirectly, by or for any person or entity identified in the foregoing clause (i); (iii) prohibit the ownership, voting or transfer of any portion of its outstanding Capital Stock to the extent the ownership, voting or transfer of such portion would cause the Company to violate or would otherwise result in violation of any provision of the Communications Act or FCC Regulations; (iv) redeem Capital Stock to the extent necessary to bring the Company into compliance with the Communications Act or FCC Regulations or to prevent the loss or impairment of any of the Company's FCC licenses, (v) require disclosure to the Company by any stockholder of the Company if such stockholder's ownership of the Capital Stock would result in 5% or more of the

Company's Capital Stock being owned or voted, directly or indirectly, by any person or entity identified in the foregoing clause (i), and (vi) require that any stockholder of the Company provide such information as the Company deems necessary or appropriate to effect the provisions of this Section 6 of Article V.

#### SECTION 7. LEGEND.

Shares of Common Stock, to the extent certificated, shall bear a legend setting forth the restrictions on transfer and ownership which apply to such shares.

#### SECTION 8. DEFINITIONS.

For the purposes of this certificate of incorporation, the following capitalized terms shall have the meanings set forth below:

"Advancement of Expenses" shall be defined as set forth in Article XI.

"Affiliate" shall be defined as set forth in Rule 144 promulgated under the Securities Act.

"Aliens" shall be defined as set forth in Section 6 of this Article V.

"Capital Stock" means all shares now or hereafter authorized of any class or series of capital stock of the Company which has the right to participate in the distribution of the assets and earnings of the Company, including Common Stock and any shares of capital stock into which Common Stock may be converted (as a result of recapitalization, share exchange or similar event) or are issued with respect to Common Stock, including, without limitation, with respect to any stock split or stock dividend, or a successor security.

"Class A Common Stock" shall be defined as set forth in Article IV.

"Class B Common Stock" shall be defined as set forth in Article IV.

"Common Stock" shall be defined as set forth in Article IV.

"Communications Act" shall mean the Communications Act of 1934, as amended.

"Director" shall mean a current or former member of the Board of Directors of the Company or Cumulus Media, Inc. (the "Predecessor Company").

"DGCL" shall mean General Corporation Law of Delaware, as amended from time to time.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"FCC" shall mean the Federal Communications Commission.

"FCC Regulations" shall mean the rules, regulations or policies promulgated by the FCC and in effect from time to time.

"Final Adjudication" shall be defined as set forth in Article XI.

“Indemnitee” shall be defined as set forth in Article XI.

“Person” shall include any individual, entity, or group within the meaning of Section 13(d)(3) of the Exchange Act.

“Preferred Stock” shall be defined as set forth in Article IV.

“Proceeding” shall be defined as set forth in Article XI.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Undertaking” shall be defined as set forth in Article XI.

“Voting Securities” means the Common Stock and any other securities of the Company of any kind or class having power generally to vote for the election of Directors.

“Warrants” shall be as defined in Section 2 of this Article V.

“Warrant Agreements” shall be as defined in Section 2 of this Article V.

## **ARTICLE VI.**

### **TERMS OF PREFERRED STOCK**

The Board of Directors is hereby expressly authorized to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, the voting powers, if any, of the shares of such series, and the preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. Except to the extent otherwise provided in any resolution or resolutions providing for the issue of any series of Preferred Stock, the number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock. Notwithstanding the foregoing, the Board of Directors shall not issue any Preferred Stock for the purpose of implementing any shareholder rights plan unless, within one hundred and twenty (120) days thereof, such shareholder rights plan shall have been ratified by the affirmative vote of at least a majority of the total voting power of the outstanding shares of Capital Stock entitled to vote on such matters (voting as a class).

## **ARTICLE VII.**

### **NO CUMULATIVE VOTING**

No holder of any shares of any class of stock of the Company shall be entitled to cumulative voting rights in any circumstances.



## **ARTICLE VIII.**

### **NO PRE-EMPTIVE RIGHTS**

No stockholders shall have any pre-emptive rights to acquire unissued shares of the Company or securities of the Company convertible into or carrying a right to subscribe to or acquire shares.

## **ARTICLE IX.**

### **ELECTION BY WRITTEN BALLOT NOT REQUIRED**

Elections of Directors need not be by written ballot except and to the extent provided in the bylaws of the Company.

## **ARTICLE X.**

### **LIMITATION OF LIABILITY OF DIRECTORS**

To the full extent permitted by the DGCL or any other applicable law currently or hereafter in effect, no Director will be personally liable to the Company or its stockholders for or with respect to any acts or omissions in the performance of his or her duties as a Director. Any repeal or modification of this Article X will not adversely affect any right or protection of a Director existing prior to such repeal or modification. If the DGCL is hereafter amended to permit further elimination or limitation of the personal liability of directors, then the liability of a Director shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. Any repeal or modification of this Article TENTH by the stockholders of the Company, adoption of any provision inconsistent herewith or otherwise shall not adversely affect any right or protection of a Director existing at the time of such repeal, alteration, amendment, adoption or modification. The provisions of this Article TENTH shall continue as to a person who has ceased to be a Director and shall inure to his heirs, executors, administrators and personal and legal representatives.

## **ARTICLE XI.**

### **INDEMNIFICATION**

(a) Right to Indemnification. Each person who was or is a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") by reason of the fact that the person is or was a director or officer of the Company or the Predecessor Company, or while a director or officer of the Company or the Predecessor Company is or was serving at the request of the Company or the Predecessor Company as a director, officer, manager, employee or agent (including attorneys and other professionals) of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, and such current and former director, officer or manager's Affiliates (an "Indemnatee"), whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, manager, employee or agent, shall be indemnified and held harmless by the Company to the fullest extent permitted or required by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than such law permitted the Company to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such

Indemnatee in connection therewith if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such person's conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful. Such indemnification shall continue to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder, and such indemnification shall inure to the benefit of such person's heirs, executors and administrators. Notwithstanding the foregoing, except as provided in paragraph (c) of this Article XI with respect to Proceedings to enforce rights to indemnification, the Company shall indemnify any such Indemnatee in connection with a Proceeding (or part thereof) initiated by such Indemnatee only if such Proceeding (or part thereof) was authorized by the Board of Directors of the Company.

(b) Right to Advancement of Expenses. The right to indemnification conferred in paragraph (a) of this Article XI shall include the right to be paid by the Company the expenses (including, without limitation, attorneys' fees and expenses) incurred in defending any such Proceeding in advance of its final disposition (an "Advancement of Expenses"); provided, however, that, if the DGCL so requires, an Advancement of Expenses incurred by an Indemnatee in such person's capacity as a director or officer shall be made only upon delivery to the Company of an undertaking (an "Undertaking"), by or on behalf of such Indemnatee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a "Final Adjudication") that such Indemnatee is not entitled to be indemnified for such expenses under this paragraph (b) or otherwise. The rights to indemnification and to the Advancement of Expenses conferred in paragraphs (a) and (b) of this Article XI shall be contract rights and such rights shall continue as to an Indemnatee who has ceased to be a director, officer, manager, employee or agent and shall inure to the benefit of the Indemnatee's heirs, executors and administrators.

(c) Right of Indemnatee to Bring Suit. If a claim under paragraphs (a) and (b) of this Article XI is not paid in full by the Company within 60 calendar days after a written claim has been received by the Company, except in the case of a claim for an Advancement of Expenses, in which case the applicable period shall be 20 calendar days, the Indemnatee may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Indemnatee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the Indemnatee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnatee to enforce a right to an Advancement of Expenses) it shall be a defense that, and (ii) any suit brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Company shall be entitled to recover such expenses upon a Final Adjudication that, the Indemnatee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Company (including its Board of Directors, independent legal counsel or stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnatee is proper in the circumstances because the Indemnatee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Company (including its Board of Directors, independent legal counsel or stockholders) that the Indemnatee has not met such applicable standard of conduct, shall create a presumption that the Indemnatee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnatee, be a defense to such suit. In any suit brought by the Indemnatee to enforce a right to indemnification or to an Advancement of Expenses hereunder, or brought by the Company to recover an Advancement of



Expenses pursuant to the terms of an Undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such Advancement of Expenses, under this Article XI or otherwise shall be on the Company.

(d) Non-Exclusivity of Rights. The rights to indemnification and to the Advancement of Expenses conferred in this Article XI shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Company's certificate of incorporation, bylaws, any agreement, vote of stockholders or disinterested directors or otherwise.

(e) Insurance. The Company may maintain insurance, at its expense, to protect itself and any person who is or was a director, officer, employee or agent of the Company or the Predecessor Company, or is or was serving at the request of the Company or the Predecessor Company as a director, officer, manager, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or any of such director's, officer's or manager's Affiliates, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Company would have the power to indemnify such person against such liability under the DGCL.

(f) Indemnification of Employees and Agents of the Company. The Company may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the Advancement of Expenses to any employee or agent of the Company or the Predecessor Company to the fullest extent of the provisions of this Article XI with respect to the indemnification and Advancement of Expenses of directors and officers of the Company or the Predecessor Company.

## ARTICLE XII.

### BOARD OF DIRECTORS

(a) Composition of the Board of Directors. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the bylaws of the Company then in effect, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Company, subject, nevertheless, to the DGCL, this Certificate of Incorporation, and the bylaws of the Company. Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, the Board of Directors shall consist of seven members, one of whom shall at all times be the Chief Executive Officer of the Company. At each annual meeting of stockholders, directors shall be elected for a term of office to expire at the succeeding annual meeting of stockholders. Directors shall be of one class and each director shall serve until his or her successor shall have been duly elected and qualified or, if earlier, until his or her death, resignation or removal. Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, the holders of the issued and outstanding shares of Class A Common Stock shall have the right and power to elect all the directors of the Company by vote of holders of a plurality of the votes of the issued and outstanding Class A Common Stock present in person or represented by proxy at any meeting at which a quorum is present called for the purpose of electing directors.

(b) Term of Office. The term of the initial Board of Directors shall be through the 2019 annual meeting of the Company.

(c) Removal. Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, any director or the entire Board of Directors may be removed from office, with or without cause, by the affirmative vote of no less than a majority of the total voting power of the outstanding shares of the Capital Stock of the Company entitled to vote in any annual election of directors, voting together as a single class.

### **ARTICLE XIII.**

#### **AMENDMENT OF THE BYLAWS**

In furtherance and not in limitation of the rights, powers, privileges, and discretionary authority granted or conferred by the DGCL or other statutes or laws of the State of Delaware, the Board of Directors is expressly authorized to make, alter, amend or repeal the bylaws of the Company, without any action on the part of the stockholders, but the stockholders may make additional by-laws and may alter, amend or repeal any bylaw whether adopted by them or otherwise. The Company may in its bylaws confer powers upon the Board of Directors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon the Board of Directors by applicable law.

### **ARTICLE XIV.**

#### **SECTION 203 OF THE DGCL**

The Company expressly elects not to be governed by Section 203 of the DGCL.

### **ARTICLE XV.**

#### **EXCLUSIVE FORUM**

Unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (the "Court of Chancery") shall be the sole and exclusive forum for any stockholder of the Company (including a beneficial owner of stock) to bring (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim against the Company, its directors, officers or employees arising pursuant to any provision of the DGCL or this Certificate of Incorporation or the bylaws of the Company, or (iv) any action asserting a claim against the Company, its directors, officers or employees governed by the internal affairs doctrine, except as to each of (i) through (iv) above, for any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction.

### **ARTICLE XVI.**

#### **MISCELLANEOUS**

Subject to further amendments of this Certificate of Incorporation, as provided by applicable law, the Company shall not issue any non-voting equity securities in violation of Section 1123(a)(6) of Title 11 of the Bankruptcy Code, as in effect on the date of filing of this Certificate of Incorporation with the

Secretary of State of the State of Delaware; provided, however, that the foregoing restriction (i) shall have such force and effect only for so long as Section 1123 of the Bankruptcy Code is in effect and applicable to the Company, (ii) shall not have any further force or effect beyond that required under Section 1123(a)(6), and (iii) may be amended or eliminated in accordance with applicable law as from time to time may be in effect.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Amended and Restated Certificate of Incorporation to be executed by a duly authorized officer as of the [●] day of [●], 2018.

CUMULUS MEDIA INC.

By: \_\_\_\_\_  
Name:  
Title:

**Redline**

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF**

**~~{REORGANIZED-CUMULUS MEDIA INC.}~~**

~~{Reorganized-Cumulus Media Inc.}~~, a corporation organized and existing under the laws of the state of Delaware, hereby certifies as follows:

1. The name of the corporation is "~~{Reorganized-Cumulus Media Inc.}~~" (referred to herein as the "Company").

2. The Certificate of Incorporation of the Company was originally ~~was~~ filed with the Secretary of State of the State of Delaware on April ~~{ }~~9, 2018 in the name of "CM Emergence Newco Inc.".

3. This Amended and Restated Certificate of Incorporation amends and restates the provisions of the certificate of incorporation of the Company as heretofore amended (the "Certificate of Incorporation"), and been duly adopted in accordance with the provisions of Sections 242, 245 and 303 of the DGCL.

4. The text of the Certificate of Incorporation of the Company is hereby amended and restated to read in its entirety as follows:

**ARTICLE I.**

**NAME**

The name of the Company is ~~{Reorganized-Cumulus Media Inc.}~~

**ARTICLE II.**

**REGISTERED AGENT AND REGISTERED OFFICE**

The registered agent of the Company is The Corporation Trust Company and the registered office of the Company is located at Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

**ARTICLE III.**

**PURPOSE**

The purpose or purposes for which the Company is organized is the transaction of any or all lawful business for which corporations may be incorporated under the DGCL. The Company shall have perpetual existence.

**ARTICLE IV.**

**AUTHORIZED SHARES**

The aggregate number of shares which the Company is authorized to issue is [\_\_\_\_], consisting of: (i) [\_\_\_\_] shares designated as Class A Common Stock, \$~~.00~~0.0000001 par value

per share (hereinafter referred to as the “Class A Common Stock”); (ii) [ ] shares designated as Class B Common Stock, \$~~.001~~0.0000001 par value per share (hereinafter referred to as the “Class B Common Stock”); and (iii) [ ] shares of Preferred Stock, \$~~.001~~0.0000001 par value per share (hereinafter referred to as the “Preferred Stock”). The Class A Common Stock and Class B Common Stock shall be referred to collectively herein as the “Common Stock”.

## ARTICLE V.

### TERMS OF COMMON STOCK

Except with regard to voting and conversion rights, shares of Class A Common Stock and Class B Common Stock are identical in all respects. The preferences, qualifications, limitations, restrictions, and the special or relative rights in respect of the Common Stock and the various classes of Common Stock shall be as follows:

#### SECTION 1. VOTING RIGHTS.

##### (a) General Rights.

(i) The holders of shares of Class A Common Stock shall be entitled to one vote for each share of Class A Common Stock held on the record date therefor on any matter submitted to a vote of the stockholders of the Company. Except as may be required by law or by Section 1(a)(ii) or Section 1(a)(iii) of this Article V, the holders of shares of Class B Common Stock shall not be entitled to vote on any matter submitted to a vote of the stockholders of the Company.

(ii) Notwithstanding Section 1(a)(i) of this Article V, holders of Class B Common Stock shall be entitled to a separate class vote on any amendment or modification of any specific rights or obligations of the holders of Class B Common Stock that does not similarly affect the rights or obligations of the holders of Class A Common Stock.

(iii) If and only if any of the following actions are submitted to a vote of the holders of Common Stock, each share of Class B Common Stock shall be entitled to vote with the Class A Common Stock, with each share of Common Stock having one vote and voting together as a single class (provided, that, for the avoidance of doubt, nothing contained in this Section 1(a)(iii) shall be construed to prohibit the Company from taking any action set forth in the following clauses (a) through (f) without a vote of the stockholders of the Company to the extent permitted by applicable law):

- (a) the retention or dismissal of outside auditors by the Company;
- (b) any dividends or distributions to the stockholders of the Company;
- (c) any material sale of assets, recapitalization, merger, business combination, consolidation, exchange of stock or other similar reorganization involving the Company or any of its subsidiaries;
- (d) the adoption of any new or amended Certificate of Incorporation;
- (e) other than in connection with any management equity or similar plan adopted by the Board of Directors of the Company, any authorization or issuance of equity interests, or any security or instrument convertible

into or exchangeable for equity interests, in the Company or any of its subsidiaries; and

(f) the liquidation of the Company or any of its subsidiaries.

(b) No Action by Stockholders Without a Meeting. All actions of the stockholders of the Company must be taken at an annual or special meeting of the stockholders of the Company and may not be taken by written consent without a meeting.

(c) Special Meeting of Stockholders. Special meetings of stockholders of the Company may be called (i) pursuant to a resolution adopted by the Board of Directors or (ii) by the Board of Directors upon the demand, in accordance with procedures in Section 2.3 of the bylaws of the Company, of the holders of record of shares representing at least ~~10~~<sup>25</sup>% of all the votes entitled to be cast on any issue proposed to be considered at the special meeting.

## SECTION 2. DIVIDENDS.

Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, the holders of Common Stock shall be entitled to receive when, as and if declared by the Board of Directors of the Company, from funds lawfully available therefor, such dividends as may be declared by the Board of Directors of the Company from time to time. When and as dividends are declared on Common Stock, the holders of shares of each class of Common Stock will be entitled to share ratably in such dividend according to the number of shares of Common Stock held by them; provided, however, that in the case of dividends payable on Common Stock in shares of Common Stock, only Class A Common Stock will be issued with respect to dividends paid on Class A Common Stock and only Class B Common Stock will be issued with respect to dividends paid on Class B Common Stock. In the event any class of Common Stock is split, divided or combined, each other class of Common Stock simultaneously shall be proportionately split, divided or combined. The holders of shares of Common Stock and, to the extent required by the warrant agreement or agreements, entered into between the Company and the warrant agent thereunder on or about [\_\_\_\_], 2018 (as amended, modified or otherwise restated from time to time, collectively, the “Warrant Agreements”), the holders of warrants issued pursuant to the Warrant Agreements (the “Warrants”) shall be entitled to participate in such dividends ratably on a per share basis (in the case of holders of Warrants, based upon their ownership of Class A or Class B Common Stock, as the case may be, underlying their Warrants on an as-exercised basis); provided, that no such distribution shall be made to holders of Warrants, Class A Common Stock or Class B Common Stock if (i) a Federal Communications Commission (“FCC”) ruling, regulation or policy prohibits such distribution to holders of Warrants or (ii) the Company’s FCC counsel opines that such distribution is reasonably likely to cause (a) the Company to violate any applicable FCC rules or regulations or (b) any such holder of Warrants to be deemed to hold an attributable interest in the Company.

## SECTION 3. LIQUIDATION, DISSOLUTION OR WINDING-UP.

In the event of any liquidation, dissolution or winding up of the Company, whether voluntarily or involuntarily, after payment or provision for payment of the debts and other liabilities of the Company

<sup>+</sup> ~~Note to Draft: Threshold to be confirmed.~~



and the preferential amounts to which the holders of any shares ranking prior to the Common Stock in the distribution of assets shall be entitled upon liquidation, the holders of shares of the Class A Common Stock and the Class B Common Stock shall be entitled to share pro rata in the remaining assets of the Company in proportion to the respective number of shares of Common Stock held by each holder compared to the aggregate number of shares of Common Stock outstanding.

#### SECTION 4. MERGER OR CONSOLIDATION.

In the event of a merger or consolidation of the Company, shares of Class A Common Stock and Class B Common Stock shall be treated identically, except with respect to voting and conversion rights as specifically described in this Article V; provided, however, that, except where the Class A Common Stock and the Class B Common Stock are to remain outstanding, the consideration received for each share of Class A Common Stock and Class B Common Stock as part of any such merger or consolidation shall be identical.

#### SECTION 5. CONVERTIBILITY, TRANSFERS.

(a) Conversion of Class B Common Stock. Each holder of Class B Common Stock is entitled to convert at any time or times all or any of such holder's whole shares of Class B Common Stock into an equal number of shares of Class A Common Stock; provided, however, that to the extent that such conversion would result in the holder holding more than 4.99% of the outstanding shares of Class A Common Stock following such conversion, the holder shall first deliver to the Company an ownership certification in form and substance reasonably satisfactory to the Company for the purpose of enabling the Company (a) to determine that such holder does not have an attributable interest in another entity that would cause the Company to violate the Communications Act or FCC Regulations, and (b) to obtain any necessary approvals from the FCC or the United States Department of Justice. For the avoidance of doubt, the conversion rights provided by this Article V, Section 5 shall apply to whole shares of Class B Common Stock only, and the Company shall have no obligation to honor a request for conversion of a fraction of a share of Class B Common Stock. Notwithstanding anything to the contrary contained herein, the Company shall not be required to convert any share of Class B Common Stock if the Company reasonably and in good faith determines that such conversion would result in a violation of the Communications Act, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or the rules and regulations promulgated under either such Act.

(b) Condition Precedent to Conversion. As a condition precedent to any conversion of any shares of Class B Common Stock, the holder shall give the Company not less than five (5) business days' prior written notice of any intended conversion and the identity of the Person who will hold the converted shares, and shall promptly provide the Company, in addition to the information required by Section 5(a), with any information reasonably requested by the Company to ensure compliance with applicable law.

(c) Conversion.

(i) Effective Time and Deliveries upon Conversion. Upon delivery of a notice of conversion in conformity with the foregoing provisions, the Company shall thereupon, as promptly as reasonably practicable, and in any event within five business days after receipt by the Company of such notice of conversion, make or cause to be made a book entry into the stock ledger of the Company for the aggregate number of shares of Class A Common Stock issuable upon such conversion (based upon the aggregate number of shares of Class B Common Stock so converted). Any share of Class B Common Stock converted hereunder shall, to the extent (A) such shares are properly converted in accordance with the terms hereof, (B) the Company has made a reasonable and good faith determination

that such conversion does not violate the Communications Act or FCC Regulations and (C) subject to Section 5(a) of this Article V and Section 6 of this Article V, below, be deemed to have been effected immediately prior to the close of business on the day on which the notice of conversion shall have been delivered to the Company. At such time, the book entry into the stock ledger of the Company for the shares of Class A Common Stock issuable upon such conversion shall be deemed to have been made, and the holder thereof shall be deemed to be and entitled to all rights of the holder of record of such Class A Common Stock.

(ii) No Adverse Action. The Company will, subject to the provisions of this Section 5 and Section 6, below, (i) not close its books against the transfer of Class A Common Stock issued or issuable upon conversion of Class B Common Stock in any manner which interferes with the timely conversion of Class B Common Stock, and (ii) take all such actions as are reasonably necessary in order to ensure that the Class A Common Stock issued or issuable with respect to such conversion will be validly issued, fully paid and non-assessable.

(iii) Sufficient Shares. The Company shall at all times have authorized, reserved and set aside a sufficient number of shares of Class A Common Stock for the conversion of all shares of Class B Common Stock then outstanding.

(d) Condition Precedent to Transfers. As a condition precedent to any transfers of record or beneficial ownership of any Capital Stock which would cause a transferee and its Affiliates to, solely as a result of such transfer, together hold of record or beneficially, in excess of 4.99% of any class of the Company's Capital Stock, the transferor shall give the Company not less than five (5) business days' prior written notice of any intended transfer and the identity of the Person who will be the transferee, and shall promptly provide the Company with any information reasonably requested by the Company to ensure compliance with applicable law.

(e) Automatic Conversion upon exercise or exchange of Warrants. Upon (i) the exercise of any warrants (the "Initial Warrants") issued pursuant to that certain Warrant Agreement, dated as of [\_\_\_], 2018, by and between the Company and [\_\_\_], as warrant agent, (the "Initial Warrant Agreement"), for shares of Class A Common Stock or (ii) the exchange of any Initial Warrants for shares of Class A Common Stock, in each case in accordance with Section 9.16 of the Initial Warrant Agreement, an equal number of shares of Class B Common Stock shall first be issued to the exercising or exchanging holder, clauses (a) through (d) of this Section 5 shall be deemed to be complied with by virtue of exercising or exchanging the Initial Warrant in accordance with the provisions of the Initial Warrant Agreement and such shares of Class B Common Stock shall immediately and automatically convert into an equal number of shares of Class A Common Stock without any further action by the holder of the Initial Warrant.

#### SECTION 6. FCC MATTERS.-

To the extent necessary to comply with the Communications Act and FCC Regulations, the Board of Directors may (i) take any action it believes necessary to prohibit the ownership or voting of more than 22.50% (or such higher number as may be approved by the FCC after the date of this Amended and Restated Certificate of Incorporation) of the Company's outstanding Capital Stock by or for the account of aliens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country (collectively "Aliens"), or by any other entity (a) that is subject to or deemed to be subject to control by Aliens on a *de jure* or *de facto* basis or (b) owned by, or held for the benefit of, Aliens in a manner that would cause the Company to be in violation of the Communications Act or FCC Regulations; (ii) prohibit any transfer of the Company's stock which the Company believes could cause more than 22.50% (or such higher number as may be approved by the

FCC after the date of this Amended and Restated Certificate of Incorporation) of the Company's outstanding Capital Stock to be owned or voted, directly or indirectly, by or for any person or entity identified in the foregoing clause (i); (iii) prohibit the ownership, voting or transfer of any portion of its outstanding Capital Stock to the extent the ownership, voting or transfer of such portion would cause the Company to violate or would otherwise result in violation of any provision of the Communications Act or FCC Regulations; ~~and~~ (iv) redeem Capital Stock to the extent necessary to bring the Company into compliance with the Communications Act or FCC Regulations or to prevent the loss or impairment of any of the Company's FCC licenses; (v) require disclosure to the Company by any stockholder of the Company if such stockholder's ownership of the Capital Stock would result in 5% or more of the Company's Capital Stock being owned or voted, directly or indirectly, by any person or entity identified in the foregoing clause (i), and (vi) require that any stockholder of the Company provide such information as the Company deems necessary or appropriate to effect the provisions of this Section 6 of Article V.

#### SECTION 7. LEGEND.

Shares of Common Stock, to the extent certificated, shall bear a legend setting forth the restrictions on transfer and ownership which apply to such shares.

#### SECTION 8. DEFINITIONS.

For the purposes of this certificate of incorporation, the following capitalized terms shall have the meanings set forth below:

"Advancement of Expenses" shall be defined as set forth in Article XI.

"Affiliate" shall be defined as set forth in Rule 144 promulgated under the Securities Act.

"Aliens" shall be defined as set forth in Section 6 of this Article V.

"Capital Stock" means all shares now or hereafter authorized of any class or series of capital stock of the Company which has the right to participate in the distribution of the assets and earnings of the Company, including Common Stock and any shares of capital stock into which Common Stock may be converted (as a result of recapitalization, share exchange or similar event) or are issued with respect to Common Stock, including, without limitation, with respect to any stock split or stock dividend, or a successor security.

"Class A Common Stock" shall be defined as set forth in Article IV.

"Class B Common Stock" shall be defined as set forth in Article IV.

"Common Stock" shall be defined as set forth in Article IV.

"Communications Act" shall mean the Communications Act of 1934, as amended.

"Director" shall mean a current or former member of the Board of Directors of the Company or Cumulus Media, Inc. (the "Predecessor Company").

"DGCL" shall mean General Corporation Law of Delaware, as amended from time to time.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“FCC” shall mean the Federal Communications Commission.

“FCC Regulations” shall mean the rules, regulations or policies promulgated by the FCC and in effect from time to time.

“Final Adjudication” shall be defined as set forth in Article XI.

“Indemnitee” shall be defined as set forth in Article XI.

“Person” shall include any individual, entity, or group within the meaning of Section 13(d)(3) of the Exchange Act.

“Preferred Stock” shall be defined as set forth in Article IV.

“Proceeding” shall be defined as set forth in Article XI.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Undertaking” shall be defined as set forth in Article XI.

“Voting Securities” means the Common Stock and any other securities of the Company of any kind or class having power generally to vote for the election of Directors.

“Warrants” shall be as defined in Section 2 of this Article V.

“Warrant Agreements” shall be as defined in Section 2 of this Article V.

## ARTICLE VI.

### TERMS OF PREFERRED STOCK

The Board of Directors is hereby expressly authorized to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, the voting powers, if any, of the shares of such series, and the preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. Except to the extent otherwise provided in any resolution or resolutions providing for the issue of any series of Preferred Stock, the number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock.<sup>2</sup> Notwithstanding the foregoing, the Board of Directors shall not issue any

<sup>2</sup>- ~~Note to Draft: Issuance of preferred stock in the context of a shareholder rights plan to be discussed.~~

Preferred Stock for the purpose of implementing any shareholder rights plan unless, within one hundred and twenty (120) days thereof, such shareholder rights plan shall have been ratified by the affirmative vote of at least a majority of the total voting power of the outstanding shares of Capital Stock entitled to vote on such matters (voting as a class).

#### **ARTICLE VII.**

##### **NO CUMULATIVE VOTING**

No holder of any shares of any class of stock of the Company shall be entitled to cumulative voting rights in any circumstances.

#### **ARTICLE VIII.**

##### **NO PRE-EMPTIVE RIGHTS**

No stockholders shall have any pre-emptive rights to acquire unissued shares of the Company or securities of the Company convertible into or carrying a right to subscribe to or acquire shares.

#### **ARTICLE IX.**

##### **ELECTION BY WRITTEN BALLOT NOT REQUIRED**

Elections of Directors need not be by written ballot except and to the extent provided in the bylaws of the Company.

#### **ARTICLE X.**

##### **LIMITATION OF LIABILITY OF DIRECTORS**

To the full extent permitted by the DGCL or any other applicable law currently or hereafter in effect, no Director will be personally liable to the Company or its stockholders for or with respect to any acts or omissions in the performance of his or her duties as a Director. Any repeal or modification of this Article X will not adversely affect any right or protection of a Director existing prior to such repeal or modification. If the DGCL is hereafter amended to permit further elimination or limitation of the personal liability of directors, then the liability of a Director shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. Any repeal or modification of this Article TENTH by the stockholders of the Company, adoption of any provision inconsistent herewith or otherwise shall not adversely affect any right or protection of a Director existing at the time of such repeal, alteration, amendment, adoption or modification. The provisions of this Article TENTH shall continue as to a person who has ceased to be a Director and shall inure to his heirs, executors, administrators and personal and legal representatives.

#### **ARTICLE XI.**

##### **INDEMNIFICATION**

(a) Right to Indemnification. Each person who was or is a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") by reason of the fact that the person is or was a director or officer of the Company or the Predecessor Company, or while a

director or officer of the Company or the Predecessor Company is or was serving at the request of the Company or the Predecessor Company as a director, officer, manager, employee or agent (including attorneys and other professionals) of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, and such current and former director, officer or manager's Affiliates (an "Indemnatee"), whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, manager, employee or agent, shall be indemnified and held harmless by the Company to the fullest extent permitted or required by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than such law permitted the Company to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such Indemnatee in connection therewith if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such person's conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful. Such indemnification shall continue to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder, and such indemnification shall inure to the benefit of such person's heirs, executors and administrators. Notwithstanding the foregoing, except as provided in paragraph (c) of this Article XI with respect to Proceedings to enforce rights to indemnification, the Company shall indemnify any such Indemnatee in connection with a Proceeding (or part thereof) initiated by such Indemnatee only if such Proceeding (or part thereof) was authorized by the Board of Directors of the Company.

(b) Right to Advancement of Expenses. The right to indemnification conferred in paragraph (a) of this Article XI shall include the right to be paid by the Company the expenses (including, without limitation, attorneys' fees and expenses) incurred in defending any such Proceeding in advance of its final disposition (an "Advancement of Expenses"); provided, however, that, if the DGCL so requires, an Advancement of Expenses incurred by an Indemnatee in such person's capacity as a director or officer shall be made only upon delivery to the Company of an undertaking (an "Undertaking"), by or on behalf of such Indemnatee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a "Final Adjudication") that such Indemnatee is not entitled to be indemnified for such expenses under this paragraph (b) or otherwise. The rights to indemnification and to the Advancement of Expenses conferred in paragraphs (a) and (b) of this Article XI shall be contract rights and such rights shall continue as to an Indemnatee who has ceased to be a director, officer, manager, employee or agent and shall inure to the benefit of the Indemnatee's heirs, executors and administrators.

(c) Right of Indemnatee to Bring Suit. If a claim under paragraphs (a) and (b) of this Article XI is not paid in full by the Company within 60 calendar days after a written claim has been received by the Company, except in the case of a claim for an Advancement of Expenses, in which case the applicable period shall be 20 calendar days, the Indemnatee may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Indemnatee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the Indemnatee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnatee to enforce a right to an Advancement of



Expenses) it shall be a defense that, and (ii) any suit brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Company shall be entitled to recover such expenses upon a Final Adjudication that, the Indemnatee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Company (including its Board of Directors, independent legal counsel or stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnatee is proper in the circumstances because the Indemnatee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Company (including its Board of Directors, independent legal counsel or stockholders) that the Indemnatee has not met such applicable standard of conduct, shall create a presumption that the Indemnatee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnatee, be a defense to such suit. In any suit brought by the Indemnatee to enforce a right to indemnification or to an Advancement of Expenses hereunder, or brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the burden of proving that the Indemnatee is not entitled to be indemnified, or to such Advancement of Expenses, under this Article XI or otherwise shall be on the Company.

(d) Non-Exclusivity of Rights. The rights to indemnification and to the Advancement of Expenses conferred in this Article XI shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Company's certificate of incorporation, bylaws, any agreement, vote of stockholders or disinterested directors or otherwise.

(e) Insurance. The Company may maintain insurance, at its expense, to protect itself and any person who is or was a director, officer, employee or agent of the Company or the Predecessor Company, or is or was serving at the request of the Company or the Predecessor Company as a director, officer, manager, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or any of such director's, officer's or manager's Affiliates, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Company would have the power to indemnify such person against such liability under the DGCL.

(f) Indemnification of Employees and Agents of the Company. The Company may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the Advancement of Expenses to any employee or agent of the Company or the Predecessor Company to the fullest extent of the provisions of this Article XI with respect to the indemnification and Advancement of Expenses of directors and officers of the Company or the Predecessor Company.

## **ARTICLE XII.**

### **BOARD OF DIRECTORS**

(a) Composition of the Board of Directors. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the bylaws of the Company then in effect, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Company, subject, nevertheless, to the DGCL, this Certificate of Incorporation, and the bylaws of the Company. Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, the Board of Directors shall consist of seven members, one of whom shall at all times be the Chief Executive Officer of the Company. At each annual meeting of stockholders, directors shall be elected for a term of office to expire at the succeeding annual meeting of stockholders. Directors shall be of one class and each director shall serve until his or

her successor shall have been duly elected and qualified or, if earlier, until his or her death, resignation or removal. Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, the holders of the issued and outstanding shares of Class A Common Stock shall have the right and power to elect all the directors of the Company by [vote of holders of a ~~majority~~plurality of the votes of the issued and outstanding Class A Common Stock present in person or represented by proxy at any meeting at which a quorum is present called for the purpose of electing directors.]<sup>3</sup>

(b) Term of Office. The term of the initial Board of Directors shall be through the 2019 annual meeting of the Company.

(c) Removal. Subject to the rights, if any, of the holders of any outstanding Preferred Stock provided for or fixed pursuant to a resolution or resolutions designating such series in accordance with Article VI hereof, any director or the entire Board of Directors may be removed from office, with or without cause, by the affirmative vote of no less than a majority of the total voting power of the outstanding shares of the Capital Stock of the Company entitled to vote in any annual election of directors, voting together as a single class.

### ARTICLE XIII.

#### AMENDMENT OF THE BYLAWS

In furtherance and not in limitation of the rights, powers, privileges, and discretionary authority granted or conferred by the DGCL or other statutes or laws of the State of Delaware, the Board of Directors is expressly authorized to make, alter, amend or repeal the bylaws of the Company, without any action on the part of the stockholders, but the stockholders may make additional by-laws and may alter, amend or repeal any bylaw whether adopted by them or otherwise. The Company may in its bylaws confer powers upon the Board of Directors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon the Board of Directors by applicable law.

### ARTICLE XIV.

#### SECTION 203 OF THE DGCL

The Company expressly elects not to be governed by Section 203 of the DGCL.

### ARTICLE XV.

#### EXCLUSIVE FORUM

Unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (the "Court of Chancery") shall be the sole and exclusive forum for any stockholder of the Company (including a beneficial owner of stock) to bring (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim against the Company, its directors, officers or

<sup>3</sup>- ~~Note to Draft: Voting standard for election of directors to be discussed.~~



employees arising pursuant to any provision of the DGCL or this Certificate of Incorporation or the bylaws of the Company, or (iv) any action asserting a claim against the Company, its directors, officers or employees governed by the internal affairs doctrine, except as to each of (i) through (iv) above, for any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction.

#### **ARTICLE XVI.**

#### **MISCELLANEOUS**

Subject to further amendments of this Certificate of Incorporation, as provided by applicable law, the Company shall not issue any non-voting equity securities in violation of Section 1123(a)(6) of Title 11 of the Bankruptcy Code, as in effect on the date of filing of this Certificate of Incorporation with the Secretary of State of the State of Delaware; provided, however, that the foregoing restriction (i) shall have such force and effect only for so long as Section 1123 of the Bankruptcy Code is in effect and applicable to the Company, (ii) shall not have any further force or effect beyond that required under Section 1123(a)(6), and (iii) may be amended or eliminated in accordance with applicable law as from time to time may be in effect.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Amended and Restated Certificate of Incorporation to be executed by a duly authorized officer as of the [●] day of [●], 2018.

~~[REORGANIZED]~~ CUMULUS MEDIA INC.]

By: \_\_\_\_\_  
Name:  
Title:

<b>Summary report:</b> <b>Litéra® Change-Pro 7.5.0.176 Document comparison done on 4/12/2018</b> <b>2:04:30 PM</b>	
<b>Style name:</b> PW Basic	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://US/US1/11940291/7	
<b>Modified DMS:</b> iw://US/US1/11940291/8	
<b>Changes:</b>	
<u>Add</u>	14
<del>Delete</del>	29
<del>Move From</del>	1
<u>Move To</u>	1
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>45</b>

**Exhibit A-2**  
**Bylaws of Cumulus Media Inc.**

AS AMENDED  
THROUGH [●], 2018

**BYLAWS  
OF  
CUMULUS MEDIA INC.**

**ARTICLE I  
OFFICES; BOOKS AND RECORDS**

SECTION 1.1 REGISTERED OFFICE AND AGENT. Cumulus Media Inc. (hereinafter called the “Corporation”) shall at all times maintain a registered office in the state of Delaware and a registered agent at that address, as required by the Delaware General Corporation Law (the “DGCL”), but may have such other offices located in or outside the State of Delaware as the Board of Directors of the Corporation may from time to time determine. The registered agent may be changed from time to time by the Board of Directors.

SECTION 1.2 BOOKS AND RECORDS. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be maintained on any information storage device or method; 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 applicable law. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the Corporation and each of its subsidiary corporations. This inspection by a Director may be made in person or by an agent or attorney, and the right of inspections includes the right to copy and make extracts of documents.

**ARTICLE II  
STOCKHOLDERS' MEETINGS**

SECTION 2.1 PLACE OF MEETINGS. Meetings of the stockholders of the Corporation may be held at such place, either within or without the State of Delaware, as may be determined by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the DGCL.

**SECTION 2.2 ANNUAL MEETING.**

(a) The annual meeting of the stockholders of the Corporation shall be held on such date and at such time and place, if any, as may be fixed by resolution of the Board of Directors, for the purpose of electing Directors and transacting such other business as may properly come before the meeting. Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the Corporation’s notice of meeting of stockholders; (ii) by or at the direction of the Board of Directors; or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of the giving of notice required by the following paragraph, who is entitled to vote at the meeting and who has complied with the procedures set forth in this Section 2.2. Subject to the rights, if any, of holders of any outstanding shares of Preferred Stock to elect additional directors, only persons who are nominated in accordance with the procedures set forth in this Section 2.2 shall be eligible for election as Directors.

(b) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 2.2(a) of these Bylaws, (i) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and (ii) such other business must be a proper matter for stockholder action under the DGCL. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90<sup>th</sup>) day nor earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to the first anniversary of the preceding year's annual meeting; provided that if the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to such annual meeting and the tenth (10<sup>th</sup>) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of or postponement or adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (A) as to each person whom the stockholder proposed to nominate for election or reelection as a Director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Rule 14a-4(d) thereunder (including such person's written consent to being named in a proxy statement as a nominee and to serving as a Director if elected, the address and principal occupation or employment of each nominee, a description of all arrangements or understandings between the stockholder and each nominee and any person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder); (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner. The person providing the notice shall also be required to provide such further information as may be requested by the Corporation to comply with federal securities laws, rules and regulations.

(c) Except as otherwise provided by law, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

### SECTION 2.3 SPECIAL MEETINGS.

(a) A special meeting of the stockholders (a "Special Meeting") may be called only (i) pursuant to a resolution approved by the Board of Directors, or (ii) the Board of Directors upon the demand of the holders of record of shares representing at least 25% of all the votes entitled to be cast on any issue proposed to be considered at the Special Meeting.

(b) In order that the Corporation may determine the stockholders entitled to demand a Special Meeting, the Board of Directors may fix a record date to determine the stockholders entitled to make such a demand (the “Demand Record Date”). The Demand Record Date shall not precede the date upon which the resolution fixing the Demand Record Date is adopted by the Board of Directors. Any stockholder of record seeking to have stockholders demand a Special Meeting shall, by sending written notice to the Secretary of the Corporation, by hand or by certified or registered mail, return receipt requested, request the Board of Directors to fix a Demand Record Date. The Board of Directors shall promptly, but in all events within thirty (30) days after the date on which a valid request to fix a Demand Record Date is received, adopt a resolution fixing the Demand Record Date and shall make a public announcement of such Demand Record Date. If no Demand Record Date has been fixed by the Board of Directors within thirty (30) days after the date on which such request is received by the Secretary, the Demand Record Date shall be the 30<sup>th</sup> day after the first day on which a valid written request to set a Demand Record Date is received by the Secretary. To be valid, such written request from a stockholder entitled to demand a Special Meeting (a “Demand Request”) shall set forth the purpose or purposes for which the Special Meeting is to be held, shall be signed by one or more stockholders of record (or their duly authorized proxies or other representatives), shall bear the date of signature of each such stockholder (or proxy or other representative) and shall set forth all information about each such stockholder and about the beneficial owner or owners, if any, on whose behalf the request is made that would be required to be set forth in a stockholder’s notice described in Section 2.2(b). No Special Meeting shall be required to be called pursuant to clause (ii) of Section 2.3(a) unless, within thirty (30) days after the Demand Record Date, stockholders of record representing at least 25% of all the votes entitled to be cast on any issue proposed to be considered at the Special Meeting as set forth in the Demand Request (such percentage of stockholders, the “Required Percent”) shall have delivered to the Secretary of the Corporation, in the same manner required for Demand Requests, written requests or requests (each, a “Meeting Request”) to hold a Special Meeting. Nothing herein shall prohibit the Board of Directors from including in the Corporation’s notice of any Special Meeting additional matters to be submitted to the stockholders at such meeting not included in the Demand Request. Subject to the following sentence, the date, time and place, if any, of such Special Meeting, shall be not less than thirty-five (35) nor more than one hundred twenty (120) days after the date of the receipt by the Secretary of Meeting Requests from the Required Percent. Notwithstanding anything to the contrary in this Section 2.3, a Special Meeting requested by the stockholders (A) shall not be required to be held if (i) the Board of Directors has called or calls for an annual meeting of stockholders, (ii) the date designated by the Board of Directors for such annual meeting is within one hundred twenty (120) days after the date of receipt by the Secretary of Meeting Requests from the Required Percent and (iii) the purpose of such annual meeting includes or is amended to include (among any other matters properly brought before the annual meeting) the purposes specified in the Demand Request and (B) shall not be required to be held prior to the date that is ninety (90) days after the last annual meeting of stockholders of the Corporation if any purpose for the Special Meeting set forth in a Demand Request was submitted to a vote of the stockholders at such annual meeting.

#### SECTION 2.4 NOTICES TO STOCKHOLDERS.

(a) Required Notice. Written notice stating the place, day and hour of any meeting of the stockholders and, in case of a Special Meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days (twenty (20) days in the case of a merger, consolidation, share exchange, dissolution or sale, lease or exchange of material assets) nor more than sixty (60) days before the date of the meeting (unless a different time is provided by the DGCL or the Corporation’s Certificate of Incorporation), by or at the direction of the Chairman, the Chief Executive Officer, or the Secretary, to each stockholder of record entitled to vote at such meeting and to any other stockholder entitled by the DGCL or the Corporation’s Certificate of Incorporation to receive notice of such meeting. If mailed, such notice is effective when deposited in the United States mail, and shall be

addressed to the stockholder's address shown in the current record of stockholders of the Corporation, with postage thereon prepaid. Without limiting the manner by which notice otherwise may be given effectively to stockholders, notice of meetings may be given to stockholders by means of electronic transmission in accordance with applicable law.

(b) Adjourned Meeting. Except as provided in the next sentence, if any stockholder meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, and place, if the new date, time, and place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed, then notice must be given pursuant to the requirements of paragraph (a) of this Section 2.4, to those persons who are stockholders as of the new record date.

(c) Waiver of Notice. A stockholder may waive notice in accordance with Section 2.12 of these Bylaws.

(d) Contents of Notice. The notice of each Special Meeting shall include a description of the purpose or purposes for which the meeting is called. Except as otherwise provided in these Bylaws, in the Corporation's Certificate of Incorporation, or in the DGCL, the notice of an annual stockholder meeting need not include a description of the purpose or purposes for which the meeting is called. If the purpose of the meeting, or one of its purposes, is to consider a proposed reduction of stated capital without amendment to the Certificate of Incorporation, or voluntary dissolution or revocation of a voluntary dissolution by act of the Corporation, or a proposed disposition of all (or substantially all) of the assets of the Corporation outside of the ordinary course of business, the notice of the meeting shall state such purpose. If the purpose of the meeting, or one of its purposes, is to consider a proposed amendment to the Certificate of Incorporation, the notice shall set forth the proposed amendment or a summary of the changes to be effected thereby; and if the purpose of the meeting, or one of its purposes, is to consider a proposed merger or consolidation, a copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with the notice of the meeting.

#### SECTION 2.5 FIXING OF RECORD DATE.

(a) The Board of Directors may fix a date as the record date for any determination of stockholders entitled to notice of, and to vote at, a stockholders' meeting, such date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and shall not be less than ten (10) days nor more than sixty (60) days prior to the meeting. In the case of any Special Meeting called by the stockholders in accordance with the provisions of Section 2.3 of these Bylaws, if the Board of Directors fails to fix the Demand Record Date within thirty (30) days after the Secretary received a valid written request from the stockholders to set a Demand Record Date, then the close of business on such 30<sup>th</sup> day shall be the Demand Record Date. When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in these Bylaws, such determination shall be applied to any adjournment thereof unless the Board of Directors fixes a new record date and except as otherwise required by law. A new record date must be set if a meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

(b) The Board of Directors may fix a date as the record date for determining stockholders entitled to receive a dividend or distribution, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than sixty (60) days prior to such payment. If no record date is fixed for the determination of stockholders entitled to receive a dividend or distribution (other than a distribution involving a purchase, redemption or other acquisition of the Corporation's shares), the close of business on the day on which the resolution of the Board of Directors is adopted declaring the dividend or distribution shall be the record date.



SECTION 2.6 STOCKHOLDER LIST. The officer or agent having charge of the stock transfer books for shares of the Corporation shall, by the earlier of (a) twenty (20) days after the record date, or (b) ten (10) days before the meeting date, for any meeting of stockholders, make a complete record of the stockholders entitled to vote at such meeting, arranged alphabetically by class or series of shares and showing the address of and the number of shares held by each stockholder. The stockholder list shall be available at the meeting and may be inspected by any stockholder or his or her agent or attorney at any time during the meeting or any adjournment. Any stockholder or his or her agent or attorney may inspect the stockholder list beginning ten (10) business days before the meeting date and continuing until the meeting date, at the Corporation's registered office and, subject to the DGCL, may copy the list, during regular business hours and at his or her expense, during the period that it is available for inspection hereunder. If the meeting is held solely by means of remote communication, the list shall also be open for inspection by any stockholder during the whole time of the meeting as provided by applicable law. The stock ledger of the Corporation (if any) shall be prima facie evidence as to the stockholders entitled to inspect the stockholder list or to vote at any meeting of stockholders. Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

SECTION 2.7 QUORUM AND VOTING. Except as otherwise provided in the Corporation's Certificate of Incorporation, these Bylaws or the DGCL, a majority of the aggregate voting power of the issued and outstanding stock entitled to vote, represented in person or by proxy, shall constitute a quorum. Once a share is represented for any purpose at a meeting, other than for the sole purpose of objecting to holding the meeting or transacting business at the meeting, it is considered present for purposes of determining whether a quorum exists for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that meeting. If a quorum is present, the affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on the subject matter shall be the act of the stockholders unless the vote of a greater number is required by the DGCL or the Corporation's Certificate of Incorporation. Unless otherwise required by law or the Corporations' Certificate of Incorporation, the election of Directors shall be decided by a plurality of the votes cast at a meeting of the stockholders by the holders of stock entitled to vote in the election. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat and entitled to vote at the meeting, but no other business shall be transacted until a quorum is present. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter and the affirmative vote of the majority of shares of such class or classes or series present in person or represented by proxy at the meeting shall be the act of such class or classes or series.

#### SECTION 2.8 CONDUCT OF MEETINGS.

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer, or, if the Chief Executive Officer is absent, such person as the Chief Executive Officer shall appoint, shall act as chairman of, and preside at, the meeting. The Secretary, or, in his absence, an Assistant Secretary directed to do so by the Chief Executive Officer, shall act as secretary of the meeting.

(b) The Board of Directors and (to the extent consistent therewith) the chairman of the meeting shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as they shall deem necessary or appropriate. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following (i) the establishment of an agenda or order of business for the meeting; (ii) the determination of

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

SECTION 2.9 PROXIES. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the Corporation a revocation of the proxy or a new proxy bearing a later date. Voting at meetings of stockholders need not be by written ballot.

SECTION 2.10 VOTING OF SHARES. Each outstanding share shall be entitled to that number of votes specified in the Corporation's Certificate of Incorporation; provided, however, that if no such vote is specified, each outstanding share shall be entitled to one (1) vote on each matter submitted to a vote at a meeting of stockholders, except to the extent that the voting rights of the shares are enlarged, limited or denied by the DGCL. Shares of the Corporation standing in the name of another corporation, whether domestic or foreign, may be voted by such officer, agent, or proxy as the by-laws of such corporation may provide or, in the absence of any such provision, as the board of directors of such corporation may determine; and any shares voted by an officer, agent, or proxy of such corporation shall be presumed to be voted with due authority in the absence of express notice to the contrary given in writing to the Secretary or other officer of the Corporation. Shares of the Corporation belonging to the Corporation itself shall not be voted, directly or indirectly, at any meeting of the stockholders and shall not be considered in determining the total number of outstanding shares at any given time. The voting rights of fiduciaries, beneficiaries, pledgors, pledgees and joint, common and other multiple owners of shares of stock shall be as provided from time to time by the DGCL and any other applicable law.

SECTION 2.11 NO CUMULATIVE VOTING. In all elections for Directors, no stockholder shall have the right to cumulate their votes for the Directors to be elected except as otherwise specifically provided in the Corporation's Certificate of Incorporation.

SECTION 2.12 WAIVER OF NOTICE. Whenever any notice is required to be given to any stockholder under the DGCL, the Corporation's Certificate of Incorporation, or these Bylaws, a waiver thereof in writing by the stockholder entitled to such notice, signed at any time before, at or after the time of the meeting, shall be deemed equivalent to the giving of such notice. A stockholder's attendance at a meeting, in person or by proxy, waives objection to both of the following:

(a) Lack of notice or defective notice of the meeting, unless the stockholder at the beginning of the meeting or promptly upon arrival objects to holding the meeting or transacting business at the meeting.

(b) Consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the stockholder objects to considering the matter when it is presented.

SECTION 2.13 INSPECTORS OF ELECTION. This Corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be

employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the Corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

### **ARTICLE III BOARD OF DIRECTORS**

SECTION 3.1 GENERAL POWERS. Subject to any limitations imposed by the DGCL or the Corporation's Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors may adopt such rules and procedures, not inconsistent with the Corporation's Certificate of Incorporation, these Bylaws or applicable law, as it may deem proper for the conduct of its meetings and the management of the Corporation.

SECTION 3.2 NUMBER, TENURE, AND QUALIFICATIONS. The number of Directors of the Corporation shall be seven (7). The number of Directors may be changed from time to time in accordance with the provisions of the Corporation's Certificate of Incorporation. Furthermore, the Chief Executive Officer of the Corporation shall at all times be a member of the Board of Directors.

SECTION 3.3 TERM. Each Director shall hold office until the expiration of the term to which he or she has been elected or appointed and a successor is duly elected and qualified or until the director's earlier death, resignation, disqualification or removal. A Director may resign at any time by delivering a written resignation to the Board of Directors, to the Chairman, or to the Corporation through the Secretary or otherwise. Directors need not be residents of the State of Delaware or stockholders of the Corporation. Directors may be re-elected any number of times.

SECTION 3.4 REGULAR MEETINGS. A regular meeting of the Board of Directors shall be held, without other notice than this Bylaw, immediately after, and at the same place as, the annual meeting of the stockholders. The Board of Directors may provide, by resolution, for the holding of additional regular meetings of the Board of Directors, either within or without the State of Delaware, without other notice than such resolution.

SECTION 3.5 SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the Chairman of the Corporation or any two (2) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Delaware, as the place for holding any special meeting of the Board of Directors called by them.

SECTION 3.6 MEETINGS BY TELEPHONE OR OTHER COMMUNICATION TECHNOLOGY.

(a) Any or all Directors may participate in a regular or special meeting or in a committee meeting of the Board of Directors by, or conduct the meeting through the use of, telephone or any other means of communication by which all participating Directors may simultaneously hear each other during the meeting.

(b) If a meeting will be conducted through the use of any means described in paragraph (a), all participating Directors shall be informed that a meeting is taking place at which official business may be transacted. A Director participating in a meeting by any means described in paragraph (A) is deemed to be present in person at the meeting.

SECTION 3.7 NOTICE OF MEETINGS. Except as otherwise provided in the Certificate of Incorporation or the DGCL, notice of the date, time and place of any special meeting of the Board of Directors and of any special meeting of a committee of the Board shall be given orally or in writing to each Director or committee member at least twenty-four (24) hours prior to the meeting. The notice need not describe the purpose of the meeting. Notice may be communicated in person, by telephone, telegraph or facsimile, by mail or private carrier or by e-mail or by other means of electronic transmission. Whenever any notice is required to be given to any Director of the Corporation under the DGCL, the Corporation's Certificate of Incorporation, or these Bylaws, a waiver thereof in writing signed by, or by electronic transmission by, the Director entitled to such notice, signed at any time before, at or after the time of meeting, shall be deemed equivalent to the giving of such notice. If waiver of notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Director. The attendance of a Director at any meeting of the Board of Directors shall constitute a waiver of notice of the meeting, except where a Director attends for the express purpose of objecting to the transaction of any business at the meeting on the grounds that the meeting was not lawfully called or convened.

SECTION 3.8 QUORUM. A majority of the total number of Directors fixed by or in the manner provided by these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors; provided, however, that if less than a majority of such number of Directors are present, a majority of the Directors present may adjourn the meeting from time to time without further notice. A majority of the number of Directors appointed to serve on a committee shall constitute a quorum of the committee.

SECTION 3.9 MAJORITY ACTION. The act of a majority of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors (unless the act of a greater number of Directors is required by the Corporation's Certificate of Incorporation, these Bylaws or applicable law). A Director of the Corporation who is present at a meeting of the Board of Directors at which action is taken shall be conclusively presumed to have assented to the action so taken unless his dissent to such action is entered in the minutes of the meeting, or he files a written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof, or he forwards his dissent, by registered or certified mail, to the Secretary of the Corporation not later than two (2) days after the adjournment of the meeting. This right to dissent may not be exercised by any Director who voted in favor of such action.

SECTION 3.10 CONDUCT OF MEETINGS. The Chairman, or in his or her absence, any Director chosen by the Directors present, shall call meetings of the Board of Directors to order and shall

chair the meeting. The Secretary of the Corporation shall act as secretary of all meetings of the Board of Directors, but in the absence of the Secretary, the presiding officer may appoint any assistant secretary or any Director or other person present to act as secretary of the meeting.

SECTION 3.11 VACANCIES. Except as otherwise provided in the Corporation's Certificate of Incorporation, any vacancy occurring in the Board of Directors, and any directorship to be filled by reason of an increase in the number of Directors, may be filled (i) by a majority vote of the Directors then in office, even if less than a quorum is then in office, or by the sole remaining Director or (ii) by election at the annual meeting of the stockholders or at a special meeting of the stockholders called for such purpose. A Director elected to fill a vacancy shall serve for the unexpired term of his predecessor in office and until his successor is elected and qualified or until such Director's earlier death, resignation, disqualification or removal.

SECTION 3.12 COMPENSATION. By resolution adopted by the affirmative vote of a majority of the Directors then in office, and regardless of the personal interest of any Director, the Board of Directors may establish reasonable compensation of all Directors for services rendered to the Corporation as Directors, officers, or otherwise. By a like resolution, the Board of Directors may authorize the payment to all Directors of their respective expenses, if any, reasonably incurred in attending any regular or special meeting of the Board of Directors.

SECTION 3.13 COMMITTEES. By resolution adopted by the affirmative vote of a majority of Directors then in office, the Board of Directors may designate one or more committees, each committee to consist of one (1) or more Directors designated by the Board of Directors, which, to the extent provided in such resolution (as initially adopted and as thereafter supplemented or amended by further resolution adopted by a like vote) shall have and may exercise (when the Board of Directors is not in session) all of the authority and powers of the Board of Directors in the management of the business and affairs of the Corporation provided, however, that no such committee shall have or exercise the authority or powers of the Board of Directors with respect to the following: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval or (ii) adopting, amending, or repealing any bylaw of the Corporation. Each such committee shall fix its own rules governing the conduct of its activities and shall make such reports of its activities to the Board of Directors as the Board of Directors may request.

SECTION 3.14 ACTION BY UNANIMOUS WRITTEN CONSENT OF DIRECTORS OR COMMITTEES. Unless otherwise restricted by the Certificate of Incorporation or these By-laws, any action required or permitted by the DGCL, the Corporation's Certificate of Incorporation, or these Bylaws to be taken at a meeting of the Board of Directors or any committee thereof, or any other action which may be taken at a meeting of the Board of Directors or any committee thereof, may be taken without a meeting if a consent in writing or by electronic transmission, setting forth the action so taken, shall be signed by all of the Directors or committee members, as the case may be, entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of all of the members of the Board of Directors or committee thereof, as the case may be, and may be stated as such in any document filed with the Secretary of State under the DGCL.

#### **ARTICLE IV OFFICERS.**

SECTION 4.1 PRINCIPAL OFFICERS. The principal officers of the Corporation may include a Chairman, a President, one or more Vice-Presidents (the number of which shall be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of



Directors. The Board of Directors may elect or appoint such other officers and assistant officers as may be deemed necessary or desirable. One person may hold any two or more offices.

SECTION 4.2 ELECTION AND TERM OF OFFICE. Subject to Section 4.4, below, the officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held after the annual meeting of the stockholders; and each officer shall hold office until his successor is elected and qualified or until his earlier death or his resignation or removal in the manner provided in Section 4.3, below. If the election of officers is not held at such regular meeting of the Board of Directors, the election shall be held as soon thereafter as may be convenient. Election or appointment of an officer shall not of itself create any contract rights.

SECTION 4.3 REMOVAL. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, but such removal shall be without prejudice to the contract rights, if any, or the person so removed. Any officer may resign at any time by giving written notice to the Board of Directors or to the Chairman, President or Secretary of the Corporation. The resignation shall take effect on the date of receipt of the notice of resignation or at any later time specified therein; and unless the notice of resignation specifies otherwise, the resignation shall become effective without the necessity of acceptance by the Board of Directors.

SECTION 4.4 VACANCIES. If any office becomes vacant by reason of the death, resignation, or removal of the incumbent, the Board of Directors shall elect a successor who shall hold office for the unexpired term of his predecessor and until his successor is elected and qualified.

SECTION 4.5 CHAIRMAN. The Chairman shall be a Director and, when present, preside at all meetings of the stockholders and of the Board of Directors. The Chairman shall have and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 4.6 PRESIDENT. The President shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. The President shall have the authority to sign certificates for shares of the Corporation's capital stock and deeds, mortgages, bonds, contracts, or other instruments necessary or proper to be executed in the course of the Corporation's regular business or which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time. Except as otherwise provided by the DGCL or the Board of Directors, the President may authorize any Vice-President or other officer or agent of the Corporation to sign, execute and acknowledge such documents or instruments in his place and stead.

SECTION 4.7 ABSENCE OF THE CHAIRMAN. The President shall, in the absence of the Chairman, preside at all meetings of the stockholders and of the Board of Directors. In the absence of the Chairman or in the event of his death, inability or refusal to act, the President shall perform the duties of the Chairman, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman.

SECTION 4.8 VICE-PRESIDENTS. The Board of Directors may appoint Vice-Presidents which may be designated as Executive Vice Presidents or Vice-Presidents. In the absence of the President or in the event of his death, inability or refusal to act, the Vice-President, if one has been elected (or in the event that there is more than one Vice-President, the Vice-Presidents in the order designated at the time of their appointment, or in the absence of any designation, then in the order of their appointment), 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. Any Vice-President may sign certificates for shares of the Corporation's capital stock, the issuance of which have been authorized by resolution of the Board of Directors; and shall perform such other duties as from time to time may be assigned to him by the Chairman or by the Board of Directors.

SECTION 4.9 THE SECRETARY. The Secretary shall: (a) keep the minutes of the proceedings of the stockholders and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by the DGCL; (c) be custodian of the corporate records and of any seal of the Corporation and, if there is a seal of the Corporation, see that it is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each stockholder which shall be furnished to the Secretary by such stockholder or delegate that responsibility to a stock transfer agent approved by the Board of Directors; (f) sign, with the President or a Vice-President, certificates for shares of the Corporation's capital stock, the issuance of which has been authorized by resolution of the Board of Directors; (g) have general charge of the stock transfer books of the Corporation; and (h) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 4.10 TREASURER. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and (c) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall require.

SECTION 4.11 ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The Assistant Secretaries, when authorized by the Board of Directors, may sign with the President or a Vice-President certificates for shares of the Corporation the issuance of which shall have been authorized by a resolution of the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

SECTION 4.12 ASSISTANTS AND ACTING OFFICERS. The Board of Directors and the President shall each have the power to appoint any person to act as assistant to any officer, or as agent for the Corporation in the officer's stead, or to perform the duties of such officer whenever for any reason it is impracticable for such officer to act personally, and such assistant or acting officer or other agent so appointed shall have the power to perform all the duties of the office to which that person is so appointed to be assistant, or as to which he is so appointed to act, except as such power may be otherwise defined or restricted by the Board of Directors or President.

SECTION 4.13 SALARIES. The salaries of officers of the Corporation shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving a salary by reason of the fact that he is also a Director of the Corporation.

SECTION 4.14 ACTIONS WITH RESPECT TO SECURITIES OF OTHER ENTITIES. All stock and other securities of other entities owned or held by the Corporation for itself, or for other parties in any capacity, shall be voted (including by written consent), and all proxies with respect thereto shall be executed, by the person or persons authorized to do so by resolution of the Board of Directors or, in the absence of such authorization, by the Chairman, the President, the Secretary or the Treasurer.

## **ARTICLE V CERTIFICATES FOR SHARES AND THEIR TRANSFER**

SECTION 5.1 CERTIFICATES FOR SHARES. The shares of capital stock of the Corporation shall be represented by certificates, in such form as may be determined by the Board of Directors; provided, that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares and evidenced by a book-entry system maintained by the registrar of such stock. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of, the Corporation by any two authorized officers of the Corporation. Any or all such signatures may be facsimiles. The name and post office address of the person to whom shares are issued (whether represented by a certificate or uncertificated), with the number of shares and date of issuance, shall be entered on the stock transfer books of the Corporation. All certificates surrendered to the Corporation for transfer shall be canceled and no new certificates shall be issued (whether represented by a certificate or uncertificated) until the former certificate for a like number of shares has been surrendered and canceled, except that in the case of a lost, destroyed, or mutilated certificate, a new certificate may be issued therefor upon such terms and indemnity to the Corporation as the Board of Directors may prescribe.

SECTION 5.2 TRANSFER OF SHARES. Shares of the Corporation shall be transferable in the manner prescribed by applicable law, the Corporation's Certificate of Incorporation and in these Bylaws. Transfers of stock shall be made on the books of the Corporation, and in the case of certificated shares of stock, 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, properly endorsed for transfer and payment of all necessary transfer taxes; or, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney lawfully constituted in writing, and upon payment of all necessary transfer taxes and compliance with appropriate procedures for transferring shares in uncertificated form; provided, however, that such surrender and endorsement, compliance or payment of taxes shall not be required in any case in which an executive officer of the Corporation shall determine to waive such requirement. Where a certificate for shares is presented to the Corporation with a request to register for transfer, the Corporation shall not be liable to the owner or any other person suffering loss as a result of such registration of transfer if there were on or with the certificate the necessary endorsements and if the Corporation had no duty to inquire into adverse claims or had discharged any such duty. The Corporation may require reasonable assurance that the endorsements are genuine and effective and in compliance with such other regulations as may be prescribed by the Board of Directors.

With respect to certificated shares of stock, every certificate exchanged, returned or surrendered to the Corporation shall be destroyed or marked "Cancelled," with the date of cancellation, by the Secretary or Assistant Secretary of the Corporation or the transfer agent thereof. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.



SECTION 5.3 RESTRICTIONS ON TRANSFER. The face or reverse side of each certificate representing shares shall bear a conspicuous notation of any restriction upon the transfer of such shares imposed by the Corporation.

SECTION 5.4 LOST, DESTROYED OR STOLEN CERTIFICATES. Where the owner claims that his or her certificate for shares has been lost, destroyed or wrongfully taken, a new certificate shall be issued in place thereof if the owner (a) so requests before the Corporation has notice that such shares have been acquired by a bona fide purchaser; and (b) if required by the Corporation, files with the Corporation a sufficient indemnity bond; and (c) satisfies such other reasonable requirements as may be prescribed by or under the authority of the Board of Directors.

SECTION 5.5 CONSIDERATION FOR SHARES. The consideration for subscriptions to or the purchase of capital stock to be issued by the Corporation shall be fixed from time to time and determined to be adequate by the Board of Directors, provided that any shares having a par value shall not be issued for a consideration less than the par value thereof. The consideration may consist of any tangible or intangible property or benefit to the Corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the Corporation. When the Corporation receives the consideration for which the Board of Directors authorized the issuance of shares as provided above, such shares shall be deemed to be fully paid and nonassessable.

SECTION 5.6 STOCK REGULATIONS. The Board of Directors shall have the power and authority to make all such rules and regulations not inconsistent with the statutes of the State of Delaware as it may deem expedient concerning the issue, transfer and registration of shares of the Corporation, including the appointment or designation of one or more stock transfer agents and one or more registrars.

## **ARTICLE VI AMENDMENTS**

SECTION 6.1 AMENDMENT BY DIRECTORS OR STOCKHOLDERS. These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted in whole or in part by holders of a majority of the aggregate voting power of the issued and outstanding stock entitled to vote. These Bylaws may be altered, amended, or repealed, and new Bylaws may be adopted in whole or in part by the Board of Directors. The Bylaws may contain any provisions for the regulation and management of the Corporation's affairs not inconsistent with law or the Corporation's Certificate of Incorporation.

SECTION 6.2 IMPLIED AMENDMENTS. Any action taken or authorized by the stockholders of the Corporation by the affirmative vote of the holders of the majority of the outstanding shares of each class of the Corporation entitled to vote thereon, or by the Board of Directors, shall be given the same effect as though these Bylaws had been temporarily amended so far as is necessary to permit the specific action so taken or authorized.

**Redline**

AS AMENDED  
THROUGH [●], 2018

**BYLAWS  
OF  
~~REORGANIZED~~ CUMULUS MEDIA INC.]**

**ARTICLE I  
OFFICES; BOOKS AND RECORDS**

SECTION 1.1 REGISTERED OFFICE AND AGENT. ~~Reorganized~~ Cumulus Media Inc.] (hereinafter called the "Corporation") shall at all times maintain a registered office in the state of Delaware and a registered agent at that address, as required by the Delaware General Corporation Law (the "DGCL"), but may have such other offices located in or outside the State of Delaware as the Board of Directors of the Corporation may from time to time determine. The registered agent may be changed from time to time by the Board of Directors.

SECTION 1.2 BOOKS AND RECORDS. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be maintained on any information storage device or method; 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 applicable law. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the Corporation and each of its subsidiary corporations. This inspection by a Director may be made in person or by an agent or attorney, and the right of inspections includes the right to copy and make extracts of documents.

**ARTICLE II  
STOCKHOLDERS' MEETINGS**

SECTION 2.1 PLACE OF MEETINGS. Meetings of the stockholders of the Corporation may be held at such place, either within or without the State of Delaware, as may be determined by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the DGCL.

**SECTION 2.2 ANNUAL MEETING.**

(a) The annual meeting of the stockholders of the Corporation shall be held on such date and at such time and place, if any, as may be fixed by resolution of the Board of Directors, for the purpose of electing Directors and transacting such other business as may properly come before the meeting. Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the Corporation's notice of meeting of stockholders; (ii) by or at the direction of the Board of Directors; or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of the giving of notice required by the following paragraph, who is entitled to vote at the meeting and who has complied with the procedures set forth in this Section 2.2. Subject to the rights, if any, of holders of any

outstanding shares of Preferred Stock to elect additional directors, only persons who are nominated in accordance with the procedures set forth in this Section 2.2 shall be eligible for election as Directors.

(b) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 2.2(a) of these Bylaws, (i) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and (ii) such other business must be a proper matter for stockholder action under the DGCL. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90<sup>th</sup>) day nor earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to the first anniversary of the preceding year's annual meeting; provided that if the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to such annual meeting and the tenth (10<sup>th</sup>) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of or postponement or adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (A) as to each person whom the stockholder proposed to nominate for election or reelection as a Director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Rule 14a-4(d) thereunder (including such person's written consent to being named in a proxy statement as a nominee and to serving as a Director if elected, the address and principal occupation or employment of each nominee, a description of all arrangements or understandings between the stockholder and each nominee and any person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder); (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner. The person providing the notice shall also be required to provide such further information as may be requested by the Corporation to comply with federal securities laws, rules and regulations.

(c) Except as otherwise provided by law, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

## SECTION 2.3 SPECIAL MEETINGS.

(a) A special meeting of the stockholders (a "Special Meeting") may be called only (i) pursuant to a resolution approved by the Board of Directors, or (ii) the Board of Directors upon the

demand of the holders of record of shares representing at least ~~1~~<sup>1</sup>25% of all the votes entitled to be cast on any issue proposed to be considered at the Special Meeting.

(b) In order that the Corporation may determine the stockholders entitled to demand a Special Meeting, the Board of Directors may fix a record date to determine the stockholders entitled to make such a demand (the “Demand Record Date”). The Demand Record Date shall not precede the date upon which the resolution fixing the Demand Record Date is adopted by the Board of Directors. Any stockholder of record seeking to have stockholders demand a Special Meeting shall, by sending written notice to the Secretary of the Corporation, by hand or by certified or registered mail, return receipt requested, request the Board of Directors to fix a Demand Record Date. The Board of Directors shall promptly, but in all events within thirty (30) days after the date on which a valid request to fix a Demand Record Date is received, adopt a resolution fixing the Demand Record Date and shall make a public announcement of such Demand Record Date. If no Demand Record Date has been fixed by the Board of Directors within thirty (30) days after the date on which such request is received by the Secretary, the Demand Record Date shall be the 30<sup>th</sup> day after the first day on which a valid written request to set a Demand Record Date is received by the Secretary. To be valid, such written request from a stockholder entitled to demand a Special Meeting (a “Demand Request”) shall set forth the purpose or purposes for which the Special Meeting is to be held, shall be signed by one or more stockholders of record (or their duly authorized proxies or other representatives), shall bear the date of signature of each such stockholder (or proxy or other representative) and shall set forth all information about each such stockholder and about the beneficial owner or owners, if any, on whose behalf the request is made that would be required to be set forth in a stockholder’s notice described in Section 2.2(b). No Special Meeting shall be required to be called pursuant to clause (ii) of Section 2.3(a) unless, within thirty (30) days after the Demand Record Date, stockholders of record representing at least ~~1~~<sup>2</sup>25% of all the votes entitled to be cast on any issue proposed to be considered at the Special Meeting as set forth in the Demand Request (such percentage of stockholders, the “Required Percent”) shall have delivered to the Secretary of the Corporation, in the same manner required for Demand Requests, written requests or requests (each, a “Meeting Request”) to hold a Special Meeting. Nothing herein shall prohibit the Board of Directors from including in the Corporation’s notice of any Special Meeting additional matters to be submitted to the stockholders at such meeting not included in the Demand Request. Subject to the following sentence, the date, time and place, if any, of such Special Meeting, shall be not less than thirty-five (35) nor more than one hundred twenty (120) days after the date of the receipt by the Secretary of Meeting Requests from the Required Percent. Notwithstanding anything to the contrary in this Section 2.3, a Special Meeting requested by the stockholders (A) shall not be required to be held if (i) the Board of Directors has called or calls for an annual meeting of stockholders, (ii) the date designated by the Board of Directors for such annual meeting is within one hundred twenty (120) days after the date of receipt by the Secretary of Meeting Requests from the Required Percent and (iii) the purpose of such annual meeting includes or is amended to include (among any other matters properly brought before the annual meeting) the purposes specified in the Demand Request and (B) shall not be required to be held prior to ~~1~~<sup>3</sup>the date that is ninety (90) days after the last annual meeting of stockholders of the Corporation if any purpose for the Special Meeting set forth in a Demand Request was submitted to a vote of the stockholders at such annual meeting.

<sup>1</sup>- ~~Note to Draft: Threshold to be confirmed.~~

<sup>2</sup>- ~~Note to Draft: Threshold to be confirmed.~~

<sup>3</sup>- ~~Note to Draft: Number of days to be confirmed.~~

#### SECTION 2.4 NOTICES TO STOCKHOLDERS.

(a) Required Notice. Written notice stating the place, day and hour of any meeting of the stockholders and, in case of a Special Meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days (twenty (20) days in the case of a merger, consolidation, share exchange, dissolution or sale, lease or exchange of material assets) nor more than sixty (60) days before the date of the meeting (unless a different time is provided by the DGCL or the Corporation's Certificate of Incorporation), by or at the direction of the Chairman, the Chief Executive Officer, or the Secretary, to each stockholder of record entitled to vote at such meeting and to any other stockholder entitled by the DGCL or the Corporation's Certificate of Incorporation to receive notice of such meeting. If mailed, such notice is effective when deposited in the United States mail, and shall be addressed to the stockholder's address shown in the current record of stockholders of the Corporation, with postage thereon prepaid. Without limiting the manner by which notice otherwise may be given effectively to stockholders, notice of meetings may be given to stockholders by means of electronic transmission in accordance with applicable law.

(b) Adjourned Meeting. Except as provided in the next sentence, if any stockholder meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, and place, if the new date, time, and place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed, then notice must be given pursuant to the requirements of paragraph (a) of this Section 2.4, to those persons who are stockholders as of the new record date.

(c) Waiver of Notice. A stockholder may waive notice in accordance with Section 2.12 of these Bylaws.

(d) Contents of Notice. The notice of each Special Meeting shall include a description of the purpose or purposes for which the meeting is called. Except as otherwise provided in these Bylaws, in the Corporation's Certificate of Incorporation, or in the DGCL, the notice of an annual stockholder meeting need not include a description of the purpose or purposes for which the meeting is called. If the purpose of the meeting, or one of its purposes, is to consider a proposed reduction of stated capital without amendment to the Certificate of Incorporation, or voluntary dissolution or revocation of a voluntary dissolution by act of the Corporation, or a proposed disposition of all (or substantially all) of the assets of the Corporation outside of the ordinary course of business, the notice of the meeting shall state such purpose. If the purpose of the meeting, or one of its purposes, is to consider a proposed amendment to the Certificate of Incorporation, the notice shall set forth the proposed amendment or a summary of the changes to be effected thereby; and if the purpose of the meeting, or one of its purposes, is to consider a proposed merger or consolidation, a copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with the notice of the meeting.

#### SECTION 2.5 FIXING OF RECORD DATE.

(a) The Board of Directors may fix a date as the record date for any determination of stockholders entitled to notice of, and to vote at, a stockholders' meeting, such date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and shall not be less than ten (10) days nor more than sixty (60) days prior to the meeting. In the case of any Special Meeting called by the stockholders in accordance with the provisions of Section 2.3 of these Bylaws, if the Board of Directors fails to fix the Demand Record Date within thirty (30) days after the Secretary received a valid written request from the stockholders to set a Demand Record Date, then the close of business on such 30<sup>th</sup> day shall be the Demand Record Date. When a determination of



stockholders entitled to vote at any meeting of stockholders has been made as provided in these Bylaws, such determination shall be applied to any adjournment thereof unless the Board of Directors fixes a new record date and except as otherwise required by law. A new record date must be set if a meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

(b) The Board of Directors may fix a date as the record date for determining stockholders entitled to receive a dividend or distribution, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than sixty (60) days prior to such payment. If no record date is fixed for the determination of stockholders entitled to receive a dividend or distribution (other than a distribution involving a purchase, redemption or other acquisition of the Corporation's shares), the close of business on the day on which the resolution of the Board of Directors is adopted declaring the dividend or distribution shall be the record date.

SECTION 2.6 STOCKHOLDER LIST. The officer or agent having charge of the stock transfer books for shares of the Corporation shall, by the earlier of (a) twenty (20) days after the record date, or (b) ten (10) days before the meeting date, for any meeting of stockholders, make a complete record of the stockholders entitled to vote at such meeting, arranged alphabetically by class or series of shares and showing the address of and the number of shares held by each stockholder. The stockholder list shall be available at the meeting and may be inspected by any stockholder or his or her agent or attorney at any time during the meeting or any adjournment. Any stockholder or his or her agent or attorney may inspect the stockholder list beginning ten (10) business days before the meeting date and continuing until the meeting date, at the Corporation's registered office and, subject to the DGCL, may copy the list, during regular business hours and at his or her expense, during the period that it is available for inspection hereunder. If the meeting is held solely by means of remote communication, the list shall also be open for inspection by any stockholder during the whole time of the meeting as provided by applicable law. The stock ledger of the Corporation (if any) shall be prima facie evidence as to the stockholders entitled to inspect the stockholder list or to vote at any meeting of stockholders. Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

SECTION 2.7 QUORUM AND VOTING. Except as otherwise provided in the Corporation's Certificate of Incorporation, these Bylaws or the DGCL, a majority of the aggregate voting power of the issued and outstanding stock entitled to vote, represented in person or by proxy, shall constitute a quorum. Once a share is represented for any purpose at a meeting, other than for the sole purpose of objecting to holding the meeting or transacting business at the meeting, it is considered present for purposes of determining whether a quorum exists for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that meeting. If a quorum is present, the affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on the subject matter shall be the act of the stockholders unless the vote of a greater number is required by the DGCL or the Corporation's Certificate of Incorporation.<sup>4</sup> Unless otherwise required by law or the Corporations' Certificate of Incorporation, the election of Directors shall be decided by a plurality of the votes cast at a meeting of the stockholders by the holders of stock entitled to vote in the election. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat and entitled to vote at the meeting, but no other business shall be transacted until a quorum is present. Where a separate vote by a class or series or classes or series

<sup>4</sup>- ~~Note to Draft: Voting standard for election of directors to be confirmed.~~

is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter and the affirmative vote of the majority of shares of such class or classes or series present in person or represented by proxy at the meeting shall be the act of such class or classes or series.

#### SECTION 2.8 CONDUCT OF MEETINGS.

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer, or, if the Chief Executive Officer is absent, such person as the Chief Executive Officer shall appoint, shall act as chairman of, and preside at, the meeting. The Secretary, or, in his absence, an Assistant Secretary directed to do so by the Chief Executive Officer, shall act as secretary of the meeting.

(b) The Board of Directors and (to the extent consistent therewith) the chairman of the meeting shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as they shall deem necessary or appropriate. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following (i) the establishment of an agenda or order of business for the meeting; (ii) the determination of when the polls shall open and close for any given matter to be voted on at the meeting; (c) rules and procedures for maintaining order at the meeting and the safety of those present; (d) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (e) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (f) limitations on the time allotted to questions or comments by participants.

SECTION 2.9 PROXIES. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the Corporation a revocation of the proxy or a new proxy bearing a later date. Voting at meetings of stockholders need not be by written ballot.

SECTION 2.10 VOTING OF SHARES. Each outstanding share shall be entitled to that number of votes specified in the Corporation's Certificate of Incorporation; provided, however, that if no such vote is specified, each outstanding share shall be entitled to one (1) vote on each matter submitted to a vote at a meeting of stockholders, except to the extent that the voting rights of the shares are enlarged, limited or denied by the DGCL. Shares of the Corporation standing in the name of another corporation, whether domestic or foreign, may be voted by such officer, agent, or proxy as the by-laws of such corporation may provide or, in the absence of any such provision, as the board of directors of such corporation may determine; and any shares voted by an officer, agent, or proxy of such corporation shall be presumed to be voted with due authority in the absence of express notice to the contrary given in writing to the Secretary or other officer of the Corporation. Shares of the Corporation belonging to the Corporation itself shall not be voted, directly or indirectly, at any meeting of the stockholders and shall not be considered in determining the total number of outstanding shares at any given time. The voting rights of fiduciaries, beneficiaries, pledgors, pledgees and joint, common and other multiple owners of shares of stock shall be as provided from time to time by the DGCL and any other applicable law.



SECTION 2.11 NO CUMULATIVE VOTING. In all elections for Directors, no stockholder shall have the right to cumulate their votes for the Directors to be elected except as otherwise specifically provided in the Corporation's Certificate of Incorporation.

SECTION 2.12 WAIVER OF NOTICE. Whenever any notice is required to be given to any stockholder under the DGCL, the Corporation's Certificate of Incorporation, or these Bylaws, a waiver thereof in writing by the stockholder entitled to such notice, signed at any time before, at or after the time of the meeting, shall be deemed equivalent to the giving of such notice. A stockholder's attendance at a meeting, in person or by proxy, waives objection to both of the following:

(a) Lack of notice or defective notice of the meeting, unless the stockholder at the beginning of the meeting or promptly upon arrival objects to holding the meeting or transacting business at the meeting.

(b) Consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the stockholder objects to considering the matter when it is presented.

SECTION 2.13 INSPECTORS OF ELECTION. This Corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the Corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

### **ARTICLE III BOARD OF DIRECTORS**

SECTION 3.1 GENERAL POWERS. Subject to any limitations imposed by the DGCL or the Corporation's Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors may adopt such rules and procedures, not inconsistent with the Corporation's Certificate of Incorporation, these Bylaws or applicable law, as it may deem proper for the conduct of its meetings and the management of the Corporation.

SECTION 3.2 NUMBER, TENURE, AND QUALIFICATIONS. The number of Directors of the Corporation shall be seven (7). The number of Directors may be changed from time to time in

accordance with the provisions of the Corporation's Certificate of Incorporation. Furthermore, the Chief Executive Officer of the Corporation shall at all times be a member of the Board of Directors.

SECTION 3.3 TERM. Each Director shall hold office until the expiration of the term to which he or she has been elected or appointed and a successor is duly elected and qualified or until the director's earlier death, resignation, disqualification or removal. A Director may resign at any time by delivering a written resignation to the Board of Directors, to the Chairman, or to the Corporation through the Secretary or otherwise. Directors need not be residents of the State of Delaware or stockholders of the Corporation. Directors may be re-elected any number of times.

SECTION 3.4 REGULAR MEETINGS. A regular meeting of the Board of Directors shall be held, without other notice than this Bylaw, immediately after, and at the same place as, the annual meeting of the stockholders. The Board of Directors may provide, by resolution, for the holding of additional regular meetings of the Board of Directors, either within or without the State of Delaware, without other notice than such resolution.

SECTION 3.5 SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the Chairman of the Corporation or any two (2) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Delaware, as the place for holding any special meeting of the Board of Directors called by them.

#### SECTION 3.6 MEETINGS BY TELEPHONE OR OTHER COMMUNICATION TECHNOLOGY.

(a) Any or all Directors may participate in a regular or special meeting or in a committee meeting of the Board of Directors by, or conduct the meeting through the use of, telephone or any other means of communication by which all participating Directors may simultaneously hear each other during the meeting.

(b) If a meeting will be conducted through the use of any means described in paragraph (a), all participating Directors shall be informed that a meeting is taking place at which official business may be transacted. A Director participating in a meeting by any means described in paragraph (A) is deemed to be present in person at the meeting.

SECTION 3.7 NOTICE OF MEETINGS. Except as otherwise provided in the Certificate of Incorporation or the DGCL, notice of the date, time and place of any special meeting of the Board of Directors and of any special meeting of a committee of the Board shall be given orally or in writing to each Director or committee member at least twenty-four (24) hours prior to the meeting. The notice need not describe the purpose of the meeting. Notice may be communicated in person, by telephone, telegraph or facsimile, by mail or private carrier or by e-mail or by other means of electronic transmission. Whenever any notice is required to be given to any Director of the Corporation under the DGCL, the Corporation's Certificate of Incorporation, or these Bylaws, a waiver thereof in writing signed by, or by electronic transmission by, the Director entitled to such notice, signed at any time before, at or after the time of meeting, shall be deemed equivalent to the giving of such notice. If waiver of notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Director. The attendance of a Director at any meeting of the Board of Directors shall constitute a waiver of notice of the meeting, except where a Director attends for the express purpose of objecting to

the transaction of any business at the meeting on the grounds that the meeting was not lawfully called or convened.

SECTION 3.8 QUORUM. A majority of the total number of Directors fixed by or in the manner provided by these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors; provided, however, that if less than a majority of such number of Directors are present, a majority of the Directors present may adjourn the meeting from time to time without further notice. A majority of the number of Directors appointed to serve on a committee shall constitute a quorum of the committee.

SECTION 3.9 MAJORITY ACTION. The act of a majority of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors (unless the act of a greater number of Directors is required by the Corporation's Certificate of Incorporation, these Bylaws or applicable law). A Director of the Corporation who is present at a meeting of the Board of Directors at which action is taken shall be conclusively presumed to have assented to the action so taken unless his dissent to such action is entered in the minutes of the meeting, or he files a written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof, or he forwards his dissent, by registered or certified mail, to the Secretary of the Corporation not later than two (2) days after the adjournment of the meeting. This right to dissent may not be exercised by any Director who voted in favor of such action.

SECTION 3.10 CONDUCT OF MEETINGS. The Chairman, or in his or her absence, any Director chosen by the Directors present, shall call meetings of the Board of Directors to order and shall chair the meeting. The Secretary of the Corporation shall act as secretary of all meetings of the Board of Directors, but in the absence of the Secretary, the presiding officer may appoint any assistant secretary or any Director or other person present to act as secretary of the meeting.

SECTION 3.11 VACANCIES. Except as otherwise provided in the Corporation's Certificate of Incorporation, any vacancy occurring in the Board of Directors, and any directorship to be filled by reason of an increase in the number of Directors, may be filled (i) by a majority vote of the Directors then in office, even if less than a quorum is then in office, or by the sole remaining Director or (ii) by election at the annual meeting of the stockholders or at a special meeting of the stockholders called for such purpose. A Director elected to fill a vacancy shall serve for the unexpired term of his predecessor in office and until his successor is elected and qualified or until such Director's earlier death, resignation, disqualification or removal.

SECTION 3.12 COMPENSATION. By resolution adopted by the affirmative vote of a majority of the Directors then in office, and regardless of the personal interest of any Director, the Board of Directors may establish reasonable compensation of all Directors for services rendered to the Corporation as Directors, officers, or otherwise. By a like resolution, the Board of Directors may authorize the payment to all Directors of their respective expenses, if any, reasonably incurred in attending any regular or special meeting of the Board of Directors.

SECTION 3.13 COMMITTEES. By resolution adopted by the affirmative vote of a majority of Directors then in office, the Board of Directors may designate one or more committees, each committee to consist of one (1) or more Directors designated by the Board of Directors, which, to the extent provided in such resolution (as initially adopted and as thereafter supplemented or amended by further resolution adopted by a like vote) shall have and may exercise (when the Board of Directors is not in session) all of the authority and powers of the Board of Directors in the management of the business and affairs of the Corporation provided, however, that no such committee shall have or exercise the authority

or powers of the Board of Directors with respect to the following: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval or (ii) adopting, amending, or repealing any bylaw of the Corporation. Each such committee shall fix its own rules governing the conduct of its activities and shall make such reports of its activities to the Board of Directors as the Board of Directors may request.

**SECTION 3.14 ACTION BY UNANIMOUS WRITTEN CONSENT OF DIRECTORS OR COMMITTEES.** Unless otherwise restricted by the Certificate of Incorporation or these By-laws, any action required or permitted by the DGCL, the Corporation's Certificate of Incorporation, or these Bylaws to be taken at a meeting of the Board of Directors or any committee thereof, or any other action which may be taken at a meeting of the Board of Directors or any committee thereof, may be taken without a meeting if a consent in writing or by electronic transmission, setting forth the action so taken, shall be signed by all of the Directors or committee members, as the case may be, entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of all of the members of the Board of Directors or committee thereof, as the case may be, and may be stated as such in any document filed with the Secretary of State under the DGCL.

## **ARTICLE IV OFFICERS.**

**SECTION 4.1 PRINCIPAL OFFICERS.** The principal officers of the Corporation may include a Chairman, a President, one or more Vice-Presidents (the number of which shall be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. The Board of Directors may elect or appoint such other officers and assistant officers as may be deemed necessary or desirable. One person may hold any two or more offices.

**SECTION 4.2 ELECTION AND TERM OF OFFICE.** Subject to Section 4.4, below, the officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held after the annual meeting of the stockholders; and each officer shall hold office until his successor is elected and qualified or until his earlier death or his resignation or removal in the manner provided in Section 4.3, below. If the election of officers is not held at such regular meeting of the Board of Directors, the election shall be held as soon thereafter as may be convenient. Election or appointment of an officer shall not of itself create any contract rights.

**SECTION 4.3 REMOVAL.** Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer may resign at any time by giving written notice to the Board of Directors or to the Chairman, President or Secretary of the Corporation. The resignation shall take effect on the date of receipt of the notice of resignation or at any later time specified therein; and unless the notice of resignation specifies otherwise, the resignation shall become effective without the necessity of acceptance by the Board of Directors.

**SECTION 4.4 VACANCIES.** If any office becomes vacant by reason of the death, resignation, or removal of the incumbent, the Board of Directors shall elect a successor who shall hold office for the unexpired term of his predecessor and until his successor is elected and qualified.

**SECTION 4.5 CHAIRMAN.** The Chairman shall be a Director and, when present, preside at all meetings of the stockholders and of the Board of Directors. The Chairman shall have and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 4.6 PRESIDENT. The President shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. The President shall have the authority to sign certificates for shares of the Corporation's capital stock and deeds, mortgages, bonds, contracts, or other instruments necessary or proper to be executed in the course of the Corporation's regular business or which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time. Except as otherwise provided by the DGCL or the Board of Directors, the President may authorize any Vice-President or other officer or agent of the Corporation to sign, execute and acknowledge such documents or instruments in his place and stead.

SECTION 4.7 ABSENCE OF THE CHAIRMAN. The President shall, in the absence of the Chairman, preside at all meetings of the stockholders and of the Board of Directors. In the absence of the Chairman or in the event of his death, inability or refusal to act, the President shall perform the duties of the Chairman, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman.

SECTION 4.8 VICE-PRESIDENTS. The Board of Directors may appoint Vice-Presidents which may be designated as Executive Vice Presidents or Vice-Presidents. In the absence of the President or in the event of his death, inability or refusal to act, the Vice-President, if one has been elected (or in the event that there is more than one Vice-President, the Vice-Presidents in the order designated at the time of their appointment, or in the absence of any designation, then in the order of their appointment), 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. Any Vice-President may sign certificates for shares of the Corporation's capital stock, the issuance of which have been authorized by resolution of the Board of Directors; and shall perform such other duties as from time to time may be assigned to him by the Chairman or by the Board of Directors.

SECTION 4.9 THE SECRETARY. The Secretary shall: (a) keep the minutes of the proceedings of the stockholders and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by the DGCL; (c) be custodian of the corporate records and of any seal of the Corporation and, if there is a seal of the Corporation, see that it is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each stockholder which shall be furnished to the Secretary by such stockholder or delegate that responsibility to a stock transfer agent approved by the Board of Directors; (f) sign, with the President or a Vice-President, certificates for shares of the Corporation's capital stock, the issuance of which has been authorized by resolution of the Board of Directors; (g) have general charge of the stock transfer books of the Corporation; and (h) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 4.10 TREASURER. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and (c) in general perform all of the duties incident to the office of treasurer and such other



duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall require.

SECTION 4.11 ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The Assistant Secretaries, when authorized by the Board of Directors, may sign with the President or a Vice-President certificates for shares of the Corporation the issuance of which shall have been authorized by a resolution of the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

SECTION 4.12 ASSISTANTS AND ACTING OFFICERS. The Board of Directors and the President shall each have the power to appoint any person to act as assistant to any officer, or as agent for the Corporation in the officer's stead, or to perform the duties of such officer whenever for any reason it is impracticable for such officer to act personally, and such assistant or acting officer or other agent so appointed shall have the power to perform all the duties of the office to which that person is so appointed to be assistant, or as to which he is so appointed to act, except as such power may be otherwise defined or restricted by the Board of Directors or President.

SECTION 4.13 SALARIES. The salaries of officers of the Corporation shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving a salary by reason of the fact that he is also a Director of the Corporation.

SECTION 4.14 ACTIONS WITH RESPECT TO SECURITIES OF OTHER ENTITIES. All stock and other securities of other entities owned or held by the Corporation for itself, or for other parties in any capacity, shall be voted (including by written consent), and all proxies with respect thereto shall be executed, by the person or persons authorized to do so by resolution of the Board of Directors or, in the absence of such authorization, by the Chairman, the President, the Secretary or the Treasurer.

## **ARTICLE V CERTIFICATES FOR SHARES AND THEIR TRANSFER**

SECTION 5.1 CERTIFICATES FOR SHARES. The shares of capital stock of the Corporation shall be represented by certificates, in such form as may be determined by the Board of Directors; provided, that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares and evidenced by a book-entry system maintained by the registrar of such stock. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of, the Corporation by any two authorized officers of the Corporation. Any or all such signatures may be facsimiles. The name and post office address of the person to whom shares are issued (whether represented by a certificate or uncertificated), with the number of shares and date of issuance, shall be entered on the stock transfer books of the Corporation. All certificates surrendered to the Corporation for transfer shall be canceled and no new certificates shall be issued (whether represented by a certificate or uncertificated) until the former certificate for a like number of shares has been surrendered and canceled, except that in the case of a lost, destroyed, or mutilated certificate, a new certificate may be issued therefor upon such terms and indemnity to the Corporation as the Board of Directors may prescribe.

SECTION 5.2 TRANSFER OF SHARES. Shares of the Corporation shall be transferable in the manner prescribed by applicable law, the Corporation's Certificate of Incorporation and in these Bylaws. Transfers of stock shall be made on the books of the Corporation, and in the case of certificated shares of stock, 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, properly endorsed for transfer and payment of all necessary transfer taxes; or, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney lawfully constituted in writing, and upon payment of all necessary transfer taxes and compliance with appropriate procedures for transferring shares in uncertificated form; provided, however, that such surrender and endorsement, compliance or payment of taxes shall not be required in any case in which an executive officer of the Corporation shall determine to waive such requirement. Where a certificate for shares is presented to the Corporation with a request to register for transfer, the Corporation shall not be liable to the owner or any other person suffering loss as a result of such registration of transfer if there were on or with the certificate the necessary endorsements and if the Corporation had no duty to inquire into adverse claims or had discharged any such duty. The Corporation may require reasonable assurance that the endorsements are genuine and effective and in compliance with such other regulations as may be prescribed by the Board of Directors.

With respect to certificated shares of stock, every certificate exchanged, returned or surrendered to the Corporation shall be destroyed or marked "Cancelled," with the date of cancellation, by the Secretary or Assistant Secretary of the Corporation or the transfer agent thereof. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

SECTION 5.3 RESTRICTIONS ON TRANSFER. The face or reverse side of each certificate representing shares shall bear a conspicuous notation of any restriction upon the transfer of such shares imposed by the Corporation.

SECTION 5.4 LOST, DESTROYED OR STOLEN CERTIFICATES. Where the owner claims that his or her certificate for shares has been lost, destroyed or wrongfully taken, a new certificate shall be issued in place thereof if the owner (a) so requests before the Corporation has notice that such shares have been acquired by a bona fide purchaser; and (b) if required by the Corporation, files with the Corporation a sufficient indemnity bond; and (c) satisfies such other reasonable requirements as may be prescribed by or under the authority of the Board of Directors.

SECTION 5.5 CONSIDERATION FOR SHARES. The consideration for subscriptions to or the purchase of capital stock to be issued by the Corporation shall be fixed from time to time and determined to be adequate by the Board of Directors, provided that any shares having a par value shall not be issued for a consideration less than the par value thereof. The consideration may consist of any tangible or intangible property or benefit to the Corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the Corporation. When the Corporation receives the consideration for which the Board of Directors authorized the issuance of shares as provided above, such shares shall be deemed to be fully paid and nonassessable.

SECTION 5.6 STOCK REGULATIONS. The Board of Directors shall have the power and authority to make all such rules and regulations not inconsistent with the statutes of the State of Delaware as it may deem expedient concerning the issue, transfer and registration of shares of the Corporation, including the appointment or designation of one or more stock transfer agents and one or more registrars.

## **ARTICLE VI AMENDMENTS**

SECTION 6.1 AMENDMENT BY DIRECTORS OR STOCKHOLDERS. These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted in whole or in part by holders of a majority of the aggregate voting power of the issued and outstanding stock entitled to vote. These Bylaws may be altered, amended, or repealed, and new Bylaws may be adopted in whole or in part by the Board of Directors. The Bylaws may contain any provisions for the regulation and management of the Corporation's affairs not inconsistent with law or the Corporation's Certificate of Incorporation.

SECTION 6.2 IMPLIED AMENDMENTS. Any action taken or authorized by the stockholders of the Corporation by the affirmative vote of the holders of the majority of the outstanding shares of each class of the Corporation entitled to vote thereon, or by the Board of Directors, shall be given the same effect as though these Bylaws had been temporarily amended so far as is necessary to permit the specific action so taken or authorized.



<b>Summary report:</b> <b>Litéra® Change-Pro 7.5.0.176 Document comparison done on 4/12/2018</b> <b>2:06:10 PM</b>	
<b>Style name:</b> PW Basic	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://US/US1/11940326/5	
<b>Modified DMS:</b> iw://US/US1/11940326/6	
<b>Changes:</b>	
<u>Add</u>	6
<del>Delete</del>	17
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>23</b>