

Additions underscored
Deletions [bracketed]

AMENDED AND RESTATED BYLAWS

OF

NYSE MARKET, INC.

ARTICLE I

OFFICES

SECTION 1. REGISTERED OFFICE -- The registered office of NYSE Market, Inc. (the "Corporation") shall be established and maintained at the office of National Registered Agents, Inc. at 9 East Lookerman Street, Suite 1B in the City of Dover, County of Kent, State of Delaware 19901, and said National Registered Agents, Inc. shall be the registered agent of the Corporation in charge thereof.

SECTION 2. OTHER OFFICES -- The Corporation may have other offices, either within or without the State of Delaware, at such place or places as the Board of Directors may from time to time select or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

SECTION 1. ANNUAL MEETINGS -- Annual meetings of stockholders for the election of directors, and for such other business as may be stated in the notice of the meeting, shall be held at such place, either within or without the State of Delaware, and at such time and date as the Board of Directors, by resolution, shall determine and as set forth in the notice of the meeting. If the Board of Directors fails so to determine the time, date and place of meeting, the annual meeting of stockholders shall be held at the registered office of the Corporation on the first Tuesday in April. If the date of the annual meeting shall fall upon a legal holiday, the meeting shall be held on the next succeeding business day. At each annual meeting, the stockholders entitled to vote shall elect a Board of Directors and they may transact such other corporate business as shall be stated in the notice of the meeting.

SECTION 2. SPECIAL MEETINGS -- Special meetings of the stockholders for any purpose or purposes may be called by the Chairman of the Board, the Chief Executive Officer, the President or the Secretary, or by resolution of the Board of Directors.

SECTION 3. VOTING -- Each stockholder entitled to vote in accordance with the terms of the Certificate of Incorporation of the Corporation and these Bylaws may vote in

person or by proxy, but no proxy shall be voted after three years from its date unless such proxy provides for a longer period. All elections for directors shall be decided by plurality vote; all other questions shall be decided by majority vote except as otherwise provided by the Certificate of Incorporation or the laws of the State of Delaware.

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

SECTION 4. QUORUM -- Except as otherwise required by law, by the Certificate of Incorporation of the Corporation or by these Bylaws, the presence, in person or by proxy, of stockholders holding shares constituting a majority of the voting power of the Corporation shall constitute a quorum at all meetings of the stockholders. In case a quorum shall not be present at any meeting, a majority in interest of the stockholders entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the requisite amount of stock entitled to vote shall be present. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted that might have been transacted at the meeting as originally noticed; but only those stockholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof.

SECTION 5. NOTICE OF MEETINGS -- Written notice, stating the place, date and time of the meeting, and the general nature of the business to be considered, shall be given to each stockholder entitled to vote thereat, at his or her address as it appears on the records of the Corporation, not less than ten nor more than sixty days before the date of the meeting. No business other than that stated in the notice shall be transacted at any meeting without the unanimous consent of all the stockholders entitled to vote thereat.

SECTION 6. ACTION WITHOUT MEETING -- Unless otherwise provided by the Certificate of Incorporation of the Corporation, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

ARTICLE III

DIRECTORS

SECTION 1. NUMBER AND TERM; SELECTION; PETITION PROCESS --

(A) Generally. The business and affairs of the Corporation shall be managed under the direction of a Board of Directors which shall consist of not less than three persons. The number of Directors shall be fixed from time to time by the stockholder of the Corporation. Directors shall be elected at the annual meeting of the stockholders and each Director shall be elected to serve until his or her successor shall be elected and shall qualify; provided that, so long as NYSE [Group Inc. is the sole member] Euronext directly or indirectly owns all of the equity interest of New York Stock Exchange LLC and New York Stock Exchange LLC is the sole stockholder of the Corporation, the stockholder of the Corporation shall cause the Board of Directors of the Corporation to be comprised as follows: (1) the Chief Executive Officer of NYSE [Group, Inc.] Euronext shall be a Director; (2) a majority of the Directors shall be [comprised of] U.S. Persons and independent members of the board of directors of NYSE [Group, Inc.; and (3) promptly following the first time that the process described in paragraphs (B), (C) and (D) below is completed, and thereafter,] Euronext; and (3) at least twenty percent (20%), and not less than two, of the Directors shall be persons who are not members of the board of directors of NYSE [Group, Inc.] Euronext (the "Non-Affiliated Directors"). The Non-Affiliated Directors need not be independent, and must meet any status or constituent affiliation qualifications prescribed by the Corporation and filed with and approved by the Securities and Exchange Commission. A Director need not be a stockholder. The Chief Executive Officer of the Corporation shall be recused from [deliberations] acts of the Board of Directors, whether it is acting as the Board of Directors or as a committee of the Board of Directors, with respect to [activities] acts of any committee of the Board of Directors that is required to be comprised solely of Directors that satisfy the independence [requirements] policy of the [Corporation] board of directors of NYSE Euronext, as modified and amended [by the Board of Directors] from time to time. Any person who is not elected or appointed in accordance with this Section 1(A) shall not be qualified to serve as a Director and therefore shall not be elected to serve as a Director. A "U.S. Person" shall mean, as of the date of his or her most recent election or appointment as a director any person whose domicile as of such date is and for the immediately preceding twenty-four (24) months shall have been the United States.

(B) Non-Affiliated Director Candidates. The stockholder shall appoint or elect as Non-Affiliated Directors the candidates nominated by the nominating and governance committee of the board of directors of NYSE [Group, Inc.] Euronext (such committee, the "NYSE [Group] Euronext NGC" and such candidates, the "Non-Affiliated Director Candidates"). The NYSE [Group] Euronext NGC shall be obligated to designate as Non-Affiliated Director Candidates the candidates (the "DCRC Candidates") recommended by the Director Candidate Recommendation Committee of the Corporation; provided, however, that, if there shall be any Petition Candidates (as defined below), the NYSE [Group] Euronext NGC shall instead designate as Non-Affiliated Director Candidates the candidates that emerge from the process described in paragraphs (C) and (D) of this Section 1 of Article III below (such recommended candidates, or the DCRC Candidates if there are no Petition Candidates, the "Fair Representation Candidates"). The number of available Fair Representation Candidate positions shall be limited to the number necessary so that twenty percent (20%) of the Directors are Fair Representation Candidates; provided that in no event will fewer than two of the Directors on the Board of Directors be the Fair Representation Candidates. For the avoidance of doubt, it is noted that there may be additional Non-Affiliated Directors who are not appointed or elected from Fair Representation Candidates.

(C) Petition Candidates. The DCRC Candidates that are recommended to the NYSE [Group] Euronext NGC by the Director Candidate Recommendation Committee of the Corporation will be announced to the member organizations of New York Stock Exchange LLC, a New York limited liability company ("Member Organization") on a date in each year (the "Announcement Date") sufficient to accommodate the process described in this paragraph (C) and paragraph (D) of this Section 1 of Article III for the proposal by Member Organizations of alternate candidates by petition (such candidates, the "Petition Candidates") for any available Fair Representation Candidate position. Following the Announcement Date, and subject to the limitations described in this paragraph (C) and paragraph (D) of this Section 1 of Article III, a person shall be a Petition Candidate if a properly completed petition shall be completed and such person shall be endorsed by a number of signatures equal to at least ten percent (10%) of the signatures eligible to endorse a candidate as described below. For purposes of determining whether a person has been endorsed by the requisite ten percent (10%) of signatures to be a Petition Candidate, each Member Organization in good standing shall be entitled to one signature for each Trading License (as defined in the rules of New York Stock Exchange LLC) owned by it; provided, however, that no Member Organization, either alone or together with its affiliates ("Affiliates") as defined under Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), may account for more than fifty percent (50%) of the signatures endorsing a particular Petition Candidate, and any signatures of such Member Organization, either alone or together with its Affiliates, in excess of such fifty percent (50%) limitation shall be disregarded. Member Organizations that do not own a Trading License shall not be entitled to sign a petition.

Each petition for a Petition Candidate must include a completed questionnaire used to gather information concerning Non-Affiliated Director candidates (the Corporation shall provide the form of questionnaire upon the request of any Member Organization). The petitions must be filed with the Corporation within two weeks after the Announcement Date. Notwithstanding anything to the contrary, the NYSE [Group] Euronext NGC will determine whether any person endorsed to be a Petition Candidate is eligible to be a Fair Representation Candidate (including whether such person is free of any statutory disqualification (as defined in section 3(a)(39) of the Exchange Act)), and such determination will be final and conclusive.

(D) Election. If the sum of the number of DCRC Candidates and the number of Petition Candidates exceeds the number of available Fair Representation Candidate positions, all such candidates shall be submitted to the Member Organizations for a vote. The candidates receiving the highest number of votes for the available Fair Representation Candidate positions shall be the Fair Representation Candidates recommended to the NYSE [Group] Euronext NGC. The Member Organizations will be afforded a confidential voting procedure and will be given no less than 20 [business] calendar days to submit their votes. For purposes of determining which candidates received the highest number of votes and therefore should be the Fair Representation Candidates recommended to the NYSE [Group] Euronext NGC, each Member Organization in good standing shall be entitled to one vote for each Trading License owned by it; provided, however, that no Member Organization, either alone or together with its Affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate, and any votes cast by such Member Organization, either alone or together with its Affiliates, in excess of such twenty percent (20%) limitation shall be disregarded. Member Organizations that do not own a Trading License shall not be entitled to vote.

SECTION 2. RESIGNATIONS -- Any Director may resign at any time. Such resignation shall be made in writing, and shall take effect at the time specified therein, and if no time be specified, at the time of its receipt by the Chairman of the Board, the President or the Secretary. The acceptance of a resignation shall not be necessary to make it effective.

SECTION 3. VACANCIES -- If the office of any Director becomes vacant, the remaining Directors in the office, though less than a quorum, by a majority vote, may appoint any qualified person to fill such vacancy, who shall hold office for the unexpired term and until his or her successor shall be duly chosen. If the office of any Director becomes vacant and there are no remaining Directors, the stockholders, by the affirmative vote of the holders of shares constituting a majority of the voting power of the Corporation, at a special meeting called for such purpose, may appoint any qualified person to fill such vacancy. If a vacancy results from the death, retirement, resignation, disqualification or removal from office of a U.S. Person, then the Director chosen to fill such vacancy shall be a U.S. Person as of the most recent election or appointment of Directors. If a vacancy results from an increase in the number of Directors which occurs between annual meetings of the stockholders at which Directors are elected, then, if necessary for U.S. Persons to remain a majority of the Board, a U.S. Person as of the most recent election of Directors shall fill such vacancy.

SECTION 4. REMOVAL -- Except as hereinafter provided, any Director or Directors may be removed either for or without cause at any time by the affirmative vote of the holders of a majority of the voting power entitled to vote for the election of directors, at an annual meeting or a special meeting called for the purpose, and the vacancy thus created may be filled, at such meeting, by the affirmative vote of holders of shares constituting a majority of the voting power of the Corporation; provided, however, that any Director that is appointed or elected from the Fair Representation Candidates may be removed only for cause, which shall include, without limitation, the failure of such Director to be free of any statutory disqualification (as defined in section 3(a)(39) of the Exchange Act).

SECTION 5. COMMITTEES -- The Board of Directors may, by resolution or resolutions passed by a majority of the Directors then in office, designate one or more committees, each committee to consist of one or more Directors of the Corporation. Any such committee, to the extent provided in the resolution of the Board of Directors, or in these Bylaws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it. The Board of Directors may also establish one or more other committees, which may be composed of any person appointed to such committee by the Board of Directors and shall perform any function assigned to it by the Board.

The Board of Directors shall, on an annual basis, appoint a Director Candidate Recommendation Committee. The Director Candidate Recommendation Committee will be responsible for recommending Non-Affiliated Director Candidates to the NYSE [Group] Euronext NGC. The Director Candidate Recommendation Committee shall include (i) at least four individuals each of whom is associated with a Member Organization that engages in a business involving substantial direct contact with securities customers, (ii) at least two individuals each of whom is associated with a Member Organization and registered as a specialist and spends a substantial part of his time on the trading floor of the Corporation, and (iii) at least two individuals each of whom is associated with a Member Organization and spends

a majority of his time on the trading floor of the Corporation, and has as a substantial part of his business the execution of transactions on the trading floor of the Corporation for other than his own account or the account of his Member Organization, but is not registered as a specialist. The Board will appoint such individuals after appropriate consultation with representatives of Member Organizations. Any of the individuals on the Director Candidate Recommendation Committee may also serve on the Director Candidate Recommendation Committee of NYSE Regulation, Inc., a New York Type A not-for-profit corporation.

SECTION 6. MEETINGS -- The newly elected Directors may hold their first meeting for the purpose of organization and the transaction of business, if a quorum be present, immediately after the annual meeting of the stockholders; or the time and place of such meeting may be fixed by consent of all of the Directors.

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

Special meetings of the Board of Directors may be called by the Chairman of the Board or the President, or by the Secretary on the written request of any Director, on at least one day's notice to each Director (except that notice to any Director may be waived in writing by such Director) and shall be held at such place or places as may be determined by the Board of Directors, or as shall be stated in the call of the meeting.

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

SECTION 7. QUORUM – Except as otherwise required by law, a majority of the Directors then in office shall constitute a quorum for the transaction of business. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum is obtained, and no further notice thereof need be given other than by announcement at the meeting which shall be so adjourned. The vote of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the Certificate of Incorporation of the Corporation or these Bylaws shall require the vote of a greater number.

SECTION 8. COMPENSATION -- Directors shall not receive any stated salary for their services as directors or as members of committees, but by resolution of the Board of Directors a fixed fee and expenses of attendance may be allowed for attendance at each meeting. Nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity as an officer, agent or otherwise, and receiving compensation therefor.

SECTION 9. ACTION WITHOUT MEETING -- Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if a written consent thereto is signed by a majority of Directors then

in office or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board of Directors or such committee.

ARTICLE IV

OFFICERS

SECTION 1. OFFICERS -- The officers of the Corporation shall be a Chairman of the Board, a Chief Executive Officer and any additional officer appointed by the Board of Directors as it may deem advisable. Each officer of the Corporation shall be elected by the Board of Directors and shall hold office until their successors are duly elected and qualified; provided, that for so long as NYSE [Group Inc. is the sole member] Euronext directly or indirectly owns all of the equity interest of New York Stock Exchange LLC and New York Stock Exchange LLC is the sole stockholder of the Corporation, the Chief Executive Officer of [NYSE Group, Inc. shall be the Chief Executive Officer of] the Corporation shall be a U.S. Person. Each of the officers of the Corporation shall exercise such powers and perform such duties as shall be set forth in these Bylaws and as determined from time to time by the Board of Directors. Any number of offices may be held by the same person unless the Certificate of Incorporation or these Bylaws otherwise provide.

SECTION 2. CHAIRMAN OF THE BOARD -- The Chairman of the Board shall preside at all meetings of the Board of Directors and shall have and perform such other duties as may be assigned to him or her by the Board of Directors; provided, however, that, if the Chairman of the Board of Directors is also the Chief Executive Officer, he or she shall not participate in executive sessions of the Board of Directors. If the Chairman of the Board of Directors is not the Chief Executive Officer, he or she shall act as a liaison officer between the Board of Directors and the Chief Executive Officer. The Chairman of the Board shall have the power to execute bonds, mortgages and other contracts on behalf of the Corporation, and to cause the seal of the Corporation to be affixed to any instrument requiring it.

SECTION 3. CHIEF EXECUTIVE OFFICER -- The Chief Executive Officer shall have the general powers and duties of supervision and management usually vested in the office of chief executive officer of a corporation. The Chief Executive Officer shall have the power to execute bonds, mortgages and other contracts on behalf of the Corporation, and to cause the seal to be affixed to any instrument requiring it.

SECTION 4. OTHER OFFICERS—The Board of Directors may appoint one or more additional officers of the Corporation. Each such officer shall have such powers and shall perform such duties as shall be assigned to him or her by the Board of Directors.

ARTICLE V

MISCELLANEOUS

SECTION 1. TRANSFER OF SHARES -- The shares of stock of the Corporation shall be transferable only upon its books by the holders thereof in person or by their duly authorized attorneys or legal representatives, and upon such transfer the old certificates shall be surrendered to the Corporation by the delivery thereof to the person in charge of the stock and transfer books and ledgers, or to such other person as the Board of Directors may

designate, by whom they shall be cancelled, and new certificates shall thereupon be issued. A record shall be made of each transfer and whenever a transfer shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer.

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

SECTION 3. DIVIDENDS -- Subject to the provisions of the Certificate of Incorporation of the Corporation, the Board of Directors may, out of funds legally available therefor at any regular or special meeting, declare dividends upon stock of the Corporation as and when they deem appropriate. Before declaring any dividend there may be set apart out of any funds of the Corporation available for dividends, such sum or sums as the Board of Directors from time to time in their discretion deem proper for working capital or as a reserve fund to meet contingencies or for equalizing dividends or for such other purposes as the Board of Directors shall deem conducive to the interests of the Corporation.

SECTION 4. INDEMNIFICATION AND INSURANCE — (A) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “proceeding”), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the

request of the Corporation as a director, officer or employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, 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, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in paragraph (C) of this Section 4 of Article V, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The Corporation may, by action of the Board, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers. For purposes of this Bylaw, the term "Corporation" shall include any predecessor of the Corporation and any constituent corporation (including any constituent of a constituent) absorbed by the Corporation in a consolidation or merger.

(B) To obtain indemnification under this Section 4 of Article V, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification pursuant to the first sentence of this paragraph (B), a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (1) if requested by the claimant, by Independent Counsel (as hereinafter defined), or (2) if no request is made by the claimant for a determination by Independent Counsel, (i) by the Board of Directors by a majority of the Disinterested Directors (as hereinafter defined), even though less than a quorum, or (ii) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even if less than a quorum, or (iii) if there are no Disinterested Directors, or if a majority of the Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (iv) if a majority of the Disinterested Directors so directs, by the stockholders of the Corporation. In the event that the determination of entitlement to indemnification is to be made by Independent Counsel at the request of the

claimant, the Independent Counsel shall be selected by the Board of Directors. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within 10 days after such determination.

(C) If a claim under paragraph (A) of this Section 4 of Article V is not paid in full by the Corporation within thirty (30) days after a written claim pursuant to paragraph (B) of this Section 4 of Article V has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standard of conduct that makes it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, Independent Counsel or stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, Independent Counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(D) If a determination shall have been made pursuant to paragraph (B) of this Section 4 of Article V that the claimant is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to paragraph (C) of this Section 4 of Article V.

(E) The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to paragraph (C) of this Section 4 of Article V that the procedures and presumptions of this Bylaw are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this Bylaw.

(F) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Bylaw shall not be exclusive of any other right that any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or Disinterested Directors or otherwise. No repeal or modification of this Bylaw shall in any way diminish or adversely affect the rights of any director, officer, employee or agent of the Corporation hereunder in respect of any occurrence or matter arising prior to any such repeal or modification.

(G) The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL. To the extent that the Corporation maintains any policy or policies providing such insurance, each such director or officer, and each such agent or employee to which rights to indemnification have been granted as provided in paragraph (H) of this Section

4 of Article V, shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage thereunder for any such director, officer, employee or agent.

(H) The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and rights to be paid by the Corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any employee or agent of the Corporation to the fullest extent of the provisions of this Section 4 of Article V with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

(I) If any provision or provisions of this Section 4 of Article V shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Section 4 of Article V (including, without limitation, each portion of any paragraph of this Section 4 of Article V containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Section 4 of Article V (including, without limitation, each such portion of any paragraph of this Section 4 of Article V containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(J) For purposes of this Section 4 of Article V:

(1) "Disinterested Director" means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

(2) "Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner, that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the Corporation or the claimant in an action to determine the claimant's rights under this Section 4 of Article V.

(K) Any notice, request or other communication required or permitted to be given to the Corporation under this Section 4 of Article V shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

SECTION 5. SEAL -- The corporate seal of the Corporation shall be in such form as shall be determined by resolution of the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise imprinted upon the subject document or paper.

SECTION 6. FISCAL YEAR -- The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

SECTION 7. CHECKS -- All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, or agent or agents, of the Corporation, and in such manner as shall be determined from time to time by resolution of the Board of Directors.

SECTION 8. NOTICE AND WAIVER OF NOTICE -- Whenever any notice is required to be given under these Bylaws, personal notice is not required unless expressly so stated, and any notice so required shall be deemed to be sufficient if given by depositing the same in the United States mail, postage prepaid, addressed to the person entitled thereto at his or her address as it appears on the records of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. Stockholders not entitled to vote shall not be entitled to receive notice of any meetings except as otherwise provided by law. Whenever any notice is required to be given under the provisions of any law, or under the provisions of the Certificate of Incorporation of the Corporation or of these Bylaws, a waiver thereof, in writing and signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to such required notice.

SECTION 9. FORM OF 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 kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs, electronic files or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

ARTICLE VI

AMENDMENTS

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