AMENDED AND RESTATED BY-LAWS
OF
COMMUNITY HEALTH SYSTEMS, INC.
(hereinafter called the "Corporation")
(As of September 13, 2023)

ARTICLE I
OFFICES

Section 1. Registered Office. The registered office of the Corporation within the State of Delaware shall be in the City of Wilmington, County of New Castle.

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

ARTICLE II
MEETINGS OF STOCKHOLDERS

Section 1. Place of Meetings. All meetings of the stockholders shall be held at any such place, either within or without the State of Delaware, or may instead be held solely or in part by means of remote communication, as shall be designated from time to time by the Board of Directors.

Section 2. Annual Meetings. Annual meetings of stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors. Subject to applicable Legal Requirements (as defined below), the Board of Directors may postpone, reschedule or cancel any previously scheduled annual meeting of stockholders. At such annual meetings, directors shall be elected and the stockholders may also transact such other business as may properly be brought before the meeting in accordance with these Amended and Restated By-laws (the "By-laws").

Section 3. Special Meetings. Special meetings of stockholders, for any purpose or purposes, may only be called by the Board of Directors, the Chairman of the Board of Directors, if one shall have been elected, or the Chief Executive Officer. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. Subject to applicable Legal Requirements, the Board of Directors may postpone, reschedule or cancel any previously scheduled special meeting of stockholders.

Section 4. Notice of Meetings

record entitled to vote thereat not less than ten nor more than sixty days before the date of the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. In addition, if notice is provided by electronic transmission in accordance with the Delaware General Corporation Law, then such notice shall be deemed to be given when directed to the electronic mail addresses of such stockholders. If such notice is transmitted by a posting on an electronic network together with separate notice to the stockholder of such specific posting, such notice shall be deemed to be given upon the later of (i) such posting, and (ii) the giving of such separate notice. If such notice is transmitted by any other form of electronic transmission, such notice shall be deemed to be given when directed to the stockholder. Notice shall be deemed to have been given to all stockholders of record who share an address if notice is given in accordance with the "householding" rules set forth in the rules of the Securities and Exchange Commission under the Securities Exchange Act of 1934 (such Act, together with the rules and regulations promulgated thereunder being the "Exchange Act") and Section 233 of the Delaware General Corporation Law. For purposes of these By-laws,

for stockholder nominees for director set forth in Section 12 of Article II of these By-laws and/or the proxy access requirements for stockholder nominees for director set forth in Section 15 of Article II of these By-laws and (ii) such nomination has not been withdrawn by such stockholder on or before the tenth day before the Corporation first mails provides or makes available its notice of meeting for such meeting to the stockholders. When a quorum is present at any meeting, the affirmative vote of the holders of a majority of the voting power of the shares of the Corporation which are present in person or represented by proxy at the meeting and entitled to vote thereon, shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Restated Certificate of Incorporation or of these By-laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Voting at meetings of stockholders need not be by written ballot. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by such stockholder's proxy, if them ,я ŋ examination of the proxies, any envelopes submitted therewith, any information provided by a stockholder who submits a proxy by telegram, cablegram, or other electronic transmission from which it can be determined that the proxy was authorized by the stockholder, any written ballot or, if authorized by the Board, a ballot submitted by electronic transmission together with any information from which it can be determined that the electronic transmission was authorized by the stockholder, any information provided in a record of a vote if such vote was taken at the meeting by means of remote communication along with any information used to verify that any person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder, ballots and the regular books and records of the corporation, and they may also consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for such purpose, they shall, at the time they make their certification, specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the

D. a description in reasonable detail of any other economic interest in or in respect of or any other rights with respect to (including from a third party) any equity, debt or other securities of the Corporation or any subsidiary thereof, including any Derivative Securities (as defined below), directly or indirectly held by the Nominee;

E. the Nominee Information (as defined below), with respect to such Nominee;

F. a written consent of such Nominee to be named as a nominee in any proxy statement and accompanying proxy card distributed in connection with the meeting and to serve as a director if elected, and a written representation that such Nominee currently intends to serve the full term for which such Nominee would be standing for election, if elected;

G. whether such Nominee is eligible for consideration as an independent director under the relevant standards contemplated by Item 407(a) of Regulation S-K adopted by the Securities and Exchange Commission (or the corresponding provisions of any successor regulation); and

H. any other information relating to the Nominee that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for a contested election of directors pursuant to Section 14 of the Exchange Act, including, without limitation, Rule 14a-19 promulgated under the Exchange Act; and

(ii) as to the Proponent (as defined below) in relation to such proposed nomination:

A. the name and address of the Proponent, and any Stockholder Associated Persons (as defined below) thereof within the scope of any of the clauses of this Section 12(d)(ii) below;

B. the class or series and number of shares of capital stock of the Corporation that are owned of record or Beneficially Owned by the Proponent or any Stockholder Associated Person thereof;

C. a description in reasonable detail of any other economic interest in or in respect of or any other rights with respect to (including from a third party) any equity, debt or other securities of the Corporation or any subsidiary thereof, including any Derivative Securities (as defined below), directly or indirectly held by the Proponent or any Stockholder Associated Person thereof;

D. a description in reasonable detail of all agreements, arrangements, or
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E. a description in reasonable detail of all direct or indirect agreements, arrangements or understandings (including with respect to compensatory matters), and any material relationships, in any such case, within the last three years, between the Proponent and any Stockholder Associated Person thereof, on the one hand, and each Nominee and his or her affiliates, on the other hand;

F. a representation as to whether the Proponent intends to engage in a solicitation with respect to the proposed nomination and, if so, (i) whether such solicitation will be conducted as an exempt solicitation under Rule 14a-2(b) under the Exchange Act, (ii) whether the Proponent intends to deliver a proxy statement and form of proxy to holders of at least the percentage of the Corporation's shares of capital stock reasonably believed by the Proponent to be sufficient to elect the Nominee, and/or (iii) whether the Proponent intends to solicit proxies in support of such nomination in accordance with Rule 14a-19 promulgated under the Exchange Act (including Rule 14a-19(a)(2) and Rule 14a-19(a)(3));

G. a representation that the nominating stockholder, or a Qualified Representative (as defined below) thereof, intends to appear in person at the meeting to nominate the persons named in its notice;

H. a description of any plans or proposals which such Proponent may have which relate to or would result in, if implemented, any action that would be required to be disclosed pursuant to Item 4 of Schedule 13D of the Exchange Act (regardless of whether a Schedule 13D is required); and

I. any other information relating to the Proponent and any Stockholder Associated Person thereof that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for a contested election of directors pursuant to Section 14 of the Exchange Act, including, without limitation, Rule 14a-19 promulgated under the Exchange Act.

(e) In addition to the information set forth in Section 12(d) above, any stockholder making a nomination pursuant to this Section 12 shall provide to the Corporation such additional information that the Corporation may reasonably request from time to time regarding the Nominee, including such information to determine the e0 G5for0.00000(390 004l)]TJETQ254.09 288.29 nforma thereunder), then the Corporation shall disregard any proxies or votes solicited for the Nominee(s) of such Rule 14a-19 Proponent, and no vote with respect to the election of such Nominee(s) shall occur (notwithstanding the fact that proxies in respect of such vote may have been received by the Corporation). Upon request by the Corporation, any Rule 14a-19 Proponent shall deliver to the Corporation, not later than five (5) business days prior to the applicable meeting, documentation reasonably satisfactory to the Corporation demonstrating that such Rule 14a-19 Proponent (including any Stockholder Associated Person of such Rule 14a-19 Proponent) has met the requirements of Rule 14a-19(a)(3) under the Exchange Act. In addition, any Rule 14a-19 Proponent shall notify the Corporation's Secretary in writing at the principal executive offices of the Corporation within two (2) business days of becoming aware that such Rule 14a-19 Proponent (including any Stockholder Associated Person of such Rule 14a-19 Proponent) no longer intends to solicit proxies in support of the Nominee(s) of such Rule 14a-19 Proponent in accordance with Rule 14a-19.

(g) The number of nominees a Proponent (including any Stockholder Associated Person of such Proponent) may nominate for election at a meeting of stockholders pursuant to this Section 12 of Article II shall not exceed the number of directors to be elected at such meeting. In addition, no Proponent (including any Stockholder Associated Person of such Proponent) will be entitled to make any additional or substitute nominations of Nominees following the expiration of the applicable time periods set forth in this Section 12 of Article II.

(h) Except as provided in Section 15 of Article II, no person shall be eligible for election as a director of the Corporation unless properly nominated in accordance with this Section 12 and Section 14 of Article II. If the chairman of the meeting determines that a nomination was not made in accordance with these By-laws, the chairman shall declare to the meeting that the nomination was not properly brought before the meeting and such defective nomination shall be disregarded, notwithstanding the fact that proxies in respect of such vote may have been received by the Corporation. Notwithstanding the foregoing provisions of this Section 12, if the nominating stockholder or a Qualified Representative of the stockholder does not appear at the meeting to present the nomination, such nomination shall be disregarded. For the avoidance of doubt, a nomination made by a Proponent giving notice under this Section 12 of Article II will not be made in accordance with these By-laws if the Board or the chairman of the meeting determines that (i) any information required to be provided by or on behalf of such Proponent (including any information related to any Stockholder Associated Person(s) of such Proponent and any Nominee(s) of such Proponent) was not, when provided, true, correct and complete, or (ii) such Proponent (including any Stockholder Associated Person(s) of such Proponent and any Nominee of such Proponent) has otherwise failed to comply with all applicable requirements pursuant to these By-laws.

Section 13. Advance Notice Provisions for Business to be Transacted at Stockholder Meetings.

(a) No business may be transacted at any meeting of stockholders, other than business that has properly been brought before the meeting (i) in accordance with this Section 13 and Section 14 of Article II and (ii) in compliance with the requirements of the Exchange Act and other applicable Legal Requirements. To be properly brought before a

(i) specified in the Corporation’s notice of meeting (or any supplement thereto);

(ii) otherwise brought before the annual meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof); or

(iii) with respect to any annual meeting of stockholders, otherwise properly brought before the annual meeting by any stockholder of the Corporation (x) who is a stockholder of record (and, with respect to any Beneficial Owner (as defined below), if different, on whose behalf such nomination is proposed by the record holder, only if such Beneficial Owner was the Beneficial Owner of shares of the Corporation) both at the time of the giving of the notice provided for in this Section 13 and on the record date for the determination of stockholders entitled to vote at such annual meeting, and (y) who complies with the provisions set forth in this Section 13 and Section 14 of Article II. This clause (iii) shall be the exclusive means for a stockholder to propose any business at any meeting of the stockholders of the Corporation; provided, however, that nothing set forth in these By-laws shall be deemed to affect any right of stockholders of the Corporation to request the inclusion of any shareholder proposal in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(b) In addition to other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation.

(c) To be timely, a stockholder’s notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the Corporation not less than 45 or more than 75 days prior to the first anniversary of the date on which the Corporation first provided or made available its proxy materials for the preceding year’s annual meeting of stockholders; provided, however, that if the date of the current year’s annual meeting is advanced more than 30 days prior to or delayed by more than 30 including clause (iii) of clause F), of Section 12(d)(ii) above (substituting references to the proposed nomination (or similar references) with the proposed business, where applicable).

(e) No business shall be conducted at any meeting of stockholders except business properly brought before the meeting in accordance with this Section 13 and Section 14 of Article II. If the chairman of a meeting of stockholders determines that business was not properly brought before the meeting pursuant to this Section 13 and Section 14 of Article II in accordance with these By-laws, the chairman shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted, notwithstanding the fact that proxies in respect of such vote may have been received by the Corporation. Notwithstanding the foregoing provisions of this Section 13, if the stockholder providing the notice or a Qualified Representative of such stockholder does not appear at the meeting to make any such proposal, such proposal shall be disregarded. For the avoidance of doubt, any business of a Proponent giving notice under this Section 13 of Article II will not be made in accordance with these By-laws if the Board or the chairman of the meeting determines that (i) any information required to be provided by or on behalf of such Proponent (including any information related to any Stockholder Associated Person(s) of such Proponent) was not, when provided, true, correct and complete, or (ii) any such Proponent (including any Stockholder Associated Person(s) of such Proponent) has otherwise failed to comply with all applicable requirements pursuant to these By-laws.

Section 14. Definitions and General Provisions Regarding Nominations and Proposals.

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(including, without limitation, under these By-laws) available to the Corporation related to any defect In addition, the Corporation may require that any Proponent providing notice of a nomination or business proposed to be brought before a meeting in accordance with Section 12 or Section 13 of Article II, as applicable, provide such additional information as may reasonably be requested by the Corporation. Such additional information will be provided as soon as reasonably practicable, and in any event within five (5) business days after such additional information has been requested by the Corporation (or such later time that the Corporation may provide in such request). The Corporation may require any proposed Nominee of any Proponent or proposed Proxy Access Nominee of any Eligible Proxy Access Stockholder to submit to interviews with the Board of Directors or any committee thereof, and such proposed Nominee or Proxy Access Nominee shall make herself or himself available for any such interviews within ten business days following the date of such request.

(c) Section 12 and Section 13 of Article II shall constitute an "advance notice provision" for annual meetings for purposes of Rule 14a-4(c)(1) under the Exchange Act.

(d) In no event will the adjournment of a meeting of stockholders or (to the extent permitted by applicable Legal Requirements) postponement of a meeting of stockholders for which notice has already been given, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in Section 12, Section 13 or Section 15 of Article II, as applicable.

(e) Nothing in these By-laws shall be deemed to affect any rights of holders of Preferred Stock or any series thereof to elect directors pursuant to any applicable provisions of the Restated Certificate of Incorporation.

(f) To be eligible to be a Nominee or Proxy Access Nominee, a person must deliver (in the case of a Nominee, in accordance with the time periods prescribed for delivery of notice under Section 12 of Article II, or, in the case of a Proxy Access Nominee (as defined below), in accordance with the time periods prescribed for delivery of a Nomination Notice under Section 15 of Article II), the following to the Secretary at the principal executive offices of the Corporation (collectively, the "Nominee Information"):

(i) a fully completed and signed copy of the Corporation's directors questionnaire (which questionnaire shall be provided by the Secretary of the Corporation upon written request); and

(ii)

by amending or supplementing its Proxy Materials, that the disregarded Proxy Access Nominee will not be included as a nominee in the Proxy Materials and will not be voted on at the annual meeting.

(c) Eligible Proxy Access Stockholder.

(i) For purposes of this Section 15, an “Eligible Proxy Access Stockholder” is a stockholder or a group of no more than twenty stockholders who own and have owned (as defined in this Section 15(c)), continuously for at least three (3) years as of the date the Nomination Notice is received by the Corporation three percent (3%) or more of the outstanding shares of common stock of the Corporation (the “Required Shares”) and who continue to own the Required Shares through the date of the annual meeting. For purposes of determining the number of outstanding shares of common stock of the Corporation for purposes of this calculation, such amount will be determined as set forth in the most recent filing of the Corporation with the SEC setting forth such amount.

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notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (x) reducing in any manner, to any extent or at any time in the future, such stockholder's or any of its affiliates' full right to vote or direct the voting of any such shares and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such stockholder or any of its affiliates.

For purposes of this Section 15, (i) a stockholder "owns" shares held in the name of a nominee or other intermediary so long as the stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares, (ii) a stockholder's ownership of shares shall be deemed to continue during any period in which the stockholder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the stockholder, and (iii) a stockholder's ownership of shares shall be deemed to continue during any period in which the stockholder has loaned such shares, provided that the stockholder has the power to recall such loaned shares on five business days' notice. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Whether outstanding shares of the Corporation are "owned" for purposes of this Section 15 shall be determined by the Board of Directors.

(v) Within the time period specified in Section 15(d) for giving a Nomination Notice, the Eligible Proxy Access Stockholder shall deliver to the Secretary of the Corporation one or more written statements from the record holder of the shares or one or more intermediaries through which the shares are or have been held verifying that, as of the date the Nomination Notice is received by the Corporation, the Eligible Proxy Access Stockholder owns, and has owned continuously for the preceding three (3) years, the Required Shares.

(d) Nomination Notice. To nominate a Proxy Access Nominee, the Eligible Proxy Access Stockholder must, no earlier than 150 days and no later than 120 days before the anniversary of the date that the Corporation provided or made available to stockholders its definitive proxy statement for the preceding year's annual meeting of stockholders, submit to the Secretary o57004C>4<0590048>92 reW*nBy o57004C>4<0590048>92 reW*nBy o57004C>4<0590oe

(iii) a written notice and agreement, in a form deemed satisfactory by the Board of Directors, that includes the following additional information, agreements and representations of the Eligible Proxy Access Stockholder (or, in the case of a group, each stockholder whose shares are aggregated for purposes of constituting an Eligible Proxy Access Stockholder):

A. all information that would be required to be included in a stockholder notice nominating director candidates pursuant to Section 12(d) of Article II (excluding the representation set forth in clause F of Section 12(d)(ii)) if the Eligible Proxy Access Stockholder were a stockholder that had nominated the Eligible Proxy Access Stockholder's Proxy Access Nominee(s) pursuant to such Section 12 (including the Nominee Information);

B. the details of any relationship that existed within the past three years and that woul

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with, or any breach or alleged breach of, its or their obligations, agreements or representations under this Section 15.

The information and documents required by this Section 15(d) to be provided by the Eligible Proxy Access Stockholder shall be (i) provided with respect to and executed by each group member, in the case of information applicable to group members, and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Eligible Proxy Access Stockholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all the information and documents referred to in this Section 15(d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to the Secretary of the Corporation. Each Eligible Proxy Access Stockholder shall also promptly provide to the Corporation such other information related to such Eligible Proxy Access Stockholder and/or the Proxy Access Nominee as may be reasonably requested by the Corporation at any time prior to the annual meeting, including such information to determine the eligibility or qual(t)-1eP or0.0r7.00000943se aminec

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ARTICLE III
DIRECTORS

Section 1. Place of Meetings. Meetings of the Board of Directors shall be held at such place or places, within or without the State of Delaware, or may be held solely or in part by means of remote communication, Section 6. Organization. At each meeting of the Board of Directors, the Chairman of the Board, if one shall have been elected, or, in the absence of the Chairman of the Board or if one shall not have been elected, the Lead Director, if one has been elected or appointed, or in the absence of such Lead Director or if one shall not have been elected or appointed, another director as determined by the Board of Directors, shall act as chairman of the meeting and preside thereat. The Secretary or, in such person's absence or inability to act, any person appointed by the chairman shall act as secretary nizaeof theeat.

Each such committee, to the extent provided in the resolution creating it, 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 require it; provided, however, that no such committee shall have the power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the Delaware General Corporation Law to be submitted to stockholders for approval or (b) adopting, amending or repealing any by-law of the Corporation. Each such committee shall serve at the pleasure of the Board of Directors and have such name as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors.

Section 11. Fees and Compensation. Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by the Board of Directors. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 12. Resignations. Any director of the Corporation may resign at any time by giving written notice of such director's resignation to the Corporation. Any such resignation shall take effect at the time, or upon the happening of an event, specified therein or, if the time or happening of an event when it shall become effective shall not be specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE IV
OFFICERS

Section 1. General. The executive officers of the Corporation shall be chosen by the Board of Directors and shall include a Chief Executive Officer, one or more Presidents, one or more Vice Presidents (including Senior, Executive, Group or other classifications of Vice Presidents), a Treasurer and a Secretary. The Board of Directors, in its discretion, may also choose as an officer of the Corporation the Chairman of the Board and any Vice Chairman of the Board. The Chief Executive Officer shall appoint other officers (including, one or more Presidents, Vice Presidents, Assistant Secretaries and one or more Assistant Treasurers) as may be necessary or desirable. The officers of the Corporation shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors or, to the extent appointed by the Chief Executive Officer, the Chief Executive Officer. The Board of Directors may also delegate to any officer of the Corporation the power to appoint such other office that has been appointed by the Chief Executive Officer or any other officer of the Corporation may be filled by the person who has the authority to fill that office.

Section 3. Resignations. Any officer of the Corporation may resign at any time by giving written notice of such officer's resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

Section 4. Removal. Any officer may be removed at any time by the Board of Directors with or without cause, except that any officer appointed by the Chief Executive Officer or any other officer of the Corporation may also be removed at any time by the Chief Executive Officer or any other officer who had appointed that officer with or without cause.

Section 5. Compensation. The compensation of all executive officers shall be fixed by or in the manner designated by the Board of Directors, and no officer shall be prevented from receiving such compensation by virtue of his or her also being a director of the Corporation.

ARTICLE V

TRANSFER

owner of such security as the person exclusively entitled to vote, receive notifications and dividends, and otherwise to exercise all the rights and powers of such security. Whenever any transfer of stock shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of transfer if, when the shares are presented to the Corporation for transfer, both the transferor and the transferee request the Corporation to do so.

Section 5. Transfer Agents and Registrars. The Board of Directors may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

Section 6. Regulations. The Board of Directors may make such additional rules and regulations, not inconsistent with these By-laws, as it may deem expedient concerning the issue, transfer and registration of shares of capital stock of the Corporation.

Section 7. Fixing the Record Date.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action other than stockholder action by written consent, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors within 10 days of the date on which such request is received, and no prior action by the Board of Directors is required by the Delaware General Corporation Law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be the first date after the expiration of such 10-day period on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Secretary of the Corporation at the Corporation's principal executive offices. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by the Delaware General Corporation Law with respect to the proposed action by written consent of the stockholders, the record date for determining stockholders entitled to consent to corporate action in writing shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

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this <u>Section 4</u>) in the circumstances because the Indemnitee has met the applicable standard of of account of the Corporation or an affiliate, including financial statements, or on information supplied to the Indemnitee by the officers of the Corporation or an affiliate in the course of their duties, or on the advice of legal counsel for the Corporation or an affiliate or on information or records given or reports made to the Corporation or an affiliate by an independent certified public accountant or by an appraiser or other expert selected with reasonable care to the Corporation or an affiliate. The Corporation shall have the burden of establishing the absence of good faith. The provisions of this Section 4(g) of this Article VI shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in these By-laws.

(h) The knowledge and/or actions, or failure to act, of any other director, officer, agent or employee of the Corporation or an affiliate shall not be imputed to the Indemnitee for purposes of determining the right to indemnification under these By-laws.

Section 5. Advances for Expenses and Costs. All expenses (including attorneys fees) incurred by or on behalf of the Indemnitee (or reasonably expected by the Indemnitee to be incurred by the Indemnitee within three months) in connection with any Proceeding shall be paid by the Corporation in advance of the final disposition of such Proceeding within twenty days after the receipt by the Corporation of a statement or statements from the Indemnitee requesting from time to time such advance or advances whether or not a determination to indemnify has been made under Section 4 of this Article VI. The Indemnitee's entitlement to such advancement of expenses shall include those incurred in connection with any Proceeding by the Indemnitee seeking an adjudication or award in arbitration pursuant to these By-laws. The financial ability of an Indemnitee to repay an advance shall not be a prerequisite to the making of such advance. Such statement or statements shall reasonably evidence such expenses incurred (or reasonably expected to be incurred) by the Indemnitee in connection therewith and shall include or be accompanied by a written undertaking by or on behalf of the Indemnitee to repay such amount if it shall ultimately be determined that the Indemnitee is not entitled to be indemnified therefor pursuant to the terms of this Article VI.

Section 6. Remedies in Cases of Determination not to Indemnify or to Advance Expenses.

(a) In the event that (i) a determination is made that the Indemnitee is not entitled to indemnification hereunder, (ii) advances are not made pursuant to Section 5 of this Article VI or (iii) payment has not been timely made following a determination of entitlement to indemnification pursuant to Section 4 of this Article VI, the Indemnitee shall be entitled to seek a final adjudication either through an arbitration proceeding or in an appropriate court of the State of Delaware or any other court of competent jurisdiction of the Indemnitee's entitlement to such indemnification or advance.

(b) In the event a determination has been made in accordance with the procedures set forth in Section 4 of this Article VI, in whole or in part, that the Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration referred to in paragraph (a) of this Section 6 shall be de novo and the Indemnitee shall not be prejudiced by reason of any such prior determination that the Indemnitee is not entitled to indemnification, and the Corporation shall bear the burdens of proof specified in Sections 3 and 4 of this Article VI in such proceeding.

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reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Corporation” as referred to in this Article VI.

Section 11. Survival of Rights. The indemnification and advancement of expenses provided by, or granted pursuant to this Article VI shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. No amendment, alteration, rescission or replacement of these By-laws or any provision hereof shall be effective as to an Indemnitee with respect to any action taken or omitted by such Indemnitee in Indemnitee’s position with the Corporation or any other entity which the Indemnitee is or was serving at the request of the Corporation prior to such amendment, alteration, rescission or replacement.

Section 12. Indemnification of Employees and Agents of the Corporation. The Corporation may, by action of the Board of Directors from time to time, grant rights to indemnification and advancement of expenses to employees and agents of the Corporation with the same scope and effect as the provisions of this Article VI with respect to the indemnification of directors and officers of the Corporation.

Section 13. Savings Clause. If this Article VI or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each person entitled to indemnification under the first paragraph of this Article VI as to all losses actually and reasonably incurred or suffered by such person and for which indemnification is available to such person pursuant to this Article VI to the full extent permitted by any applicable portion of this Article VI that shall not have been invalidated and to the full extent permitted by applicable law.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Dividends. Subject to the provisions of statute and the Restated Certificate of Incorporation, dividends upon the shares of capital stock of the Corporation may be declared by the Board of Directors at any regular or special meeting. Dividends may be paid in cash, in property or in shares of stock of the Corporation, unless otherwise provided by statute or the Restated Certificate of Incorporation.

Section 2. Reserves. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors may, from time to time, in its absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors may think conducive to the interests of the Corporation. The Board of Directors may modify or abolish any such reserve in the manner in which it was created.

Section 3. Seal. The seal of the Corporation shall be in such form as shall be approved by the Board of Directors.

Section 4. Fiscal Year. The fiscal year of the Corporation shall be December 31 and may be changed by resolution of the Board of Directors.

Section 5. Checks, Notes, Drafts, Etc. All checks, notes, drafts or other orders for the