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February 6, 2018

### **VIA ELECTRONIC MAIL**

Office of the Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: **American Airlines Group Inc.  
Stockholder Proposal of John Chevedden  
Securities Exchange Act of 1934 – Rule 14a-8**

Ladies and Gentlemen:

This letter is submitted pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended. American Airlines Group Inc. (the “Company”) has received a stockholder proposal, attached hereto as Exhibit A (the “Stockholder Proposal”), from John Chevedden (the “Proponent”) for inclusion in the Company’s proxy statement for its 2018 annual meeting of stockholders (the “2018 Meeting”). The Company hereby advises the staff (the “Staff”) of the Division of Corporation Finance that it intends to exclude the Stockholder Proposal from its proxy statement for the 2018 Meeting (the “Proxy Materials”). The Company respectfully requests confirmation that the Staff will not recommend enforcement action to the Securities and Exchange Commission (the “Commission”) if the Company excludes the Stockholder Proposal pursuant to Rule 14a-8(i)(9), as the Stockholder Proposal directly conflicts with two of the Company’s own proposals to be submitted to stockholders at the same meeting.

By copy of this letter, we are advising the Proponent of the Company’s intention to exclude the Stockholder Proposal. In accordance with Rule 14a-8(j)(2) and Staff Legal Bulletin No. 14D, we are submitting by electronic mail:

- this letter, which sets forth our reasons for excluding the Stockholder Proposal; and
- the Proponent’s letter submitting the Stockholder Proposal.

Pursuant to Rule 14a-8(j), we are submitting this letter not less than 80 days before the Company intends to file its Proxy Materials.

## The Stockholder Proposal

The Stockholder Proposal requests that the Company's stockholders approve the following resolution:

Resolved, Shareowners ask our board to take the steps necessary (unilaterally if possible) to amend our bylaws and each appropriate governing document to give holders in the aggregate of 10% of our outstanding common stock the power to call a special shareowner meeting (or the closest percentage to 10% according to state law). This proposal does not impact our board's current power to call a special meeting.

A copy of the Stockholder Proposal and supporting statement, which were received by the Company on January 1, 2018, are attached to this letter as Exhibit A.

## Background

The Company notes that its board of directors (the "Board") is scheduled to meet on or about February 20, 2018, in order to:

- approve amendments to the Company's Second Amended and Restated Bylaws (the "Bylaws") in order to permit stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company, to call a special meeting of stockholders (the "Bylaw Amendments") – such Bylaw Amendments shall become effective upon the adoption of the Certificate Amendment (as defined below) by the Company's stockholders at the 2018 Meeting;
- adopt a resolution setting forth an amendment to the Company's Certificate of Incorporation (the "Certificate") in order to remove the existing prohibition on the right of stockholders to call a special meeting and instead permit stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company to call a special meeting of stockholders (the "Certificate Amendment") – such resolution will declare the advisability of the Certificate Amendment and direct that it be considered at the 2018 Meeting; and
- direct that a resolution be considered at the 2018 Meeting (the "Company Proposal"), which asks stockholders to ratify the retention of the Bylaw Amendments as adopted by the Board, which permit stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company to call a special meeting of stockholders.

The proposed text of the Bylaw Amendments, Certificate Amendment and Company Proposal that will be presented to the Board are set forth in Exhibit B, Exhibit C and Exhibit D,

respectively. As noted above, if approved by the Board, both the Certificate Amendment and the Company Proposal will be submitted to a stockholder vote at the 2018 Meeting.

Once formal action has been taken by the Board to approve the Bylaw Amendments, the Certificate Amendment and the Company Proposal, the Company intends to notify the Staff of these actions and provide the full text of these documents as approved by the Board, noting any changes from the language set forth in the exhibits to this letter.

### **Grounds for Exclusion**

The Company intends to exclude the Stockholder Proposal from its Proxy Materials, and respectfully requests that the Staff concur that the Company may exclude the Stockholder Proposal pursuant to Rule 14a-8(i)(9) because the Stockholder Proposal directly conflicts with both the Certificate Amendment and the Company Proposal to be submitted to a stockholder vote at the 2018 Meeting.

#### **The Stockholder Proposal directly conflicts with both the Certificate Amendment and the Company Proposal to be submitted to a stockholder vote at the same meeting**

Rule 14a-8(i)(9) permits a Company to omit from its proxy materials a proposal which “directly conflicts with one of the company’s own proposals to be submitted to shareholders at the same meeting.”

The Stockholder Proposal requests that the Board amend the Company’s Bylaws and Certificate to allow holders in the aggregate of 10% of the Company’s outstanding common stock to call a special meeting of stockholders. At the 2018 Meeting, the Company plans to submit to its stockholders for approval:

- (i) the Certificate Amendment, which will remove the existing prohibition on the right of stockholders to call a special meeting and instead permit stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company to call a special meeting of stockholders; and
- (ii) the Company Proposal, which asks stockholders to ratify the retention of the Bylaw Amendments as adopted by the Board, which permit stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company to call a special meeting of stockholders.

The Company may properly exclude the Stockholder Proposal under Rule 14a-8(i)(9) because it directly conflicts with both the Certificate Amendment and the Company Proposal. In order for a direct conflict to be present, the Commission has confirmed that it is not necessary that the stockholder and company proposals “be identical in scope or focus.” Exchange Act Release No. 34-40018, n. 27 (May 21, 1998). On October 22, 2015, the Staff published Staff Legal Bulletin No. 14H (“SLB 14H”), which clarified the Staff’s interpretation of Rule 14a-8(i)(9). Instead of focusing “on the potential for shareholder confusion and inconsistent

mandates” in requesting exclusion under Rule 14a-8(i)(9), SLB 14H directs that the Staff focus on “whether there is a direct conflict between the management and shareholder proposals.” SLB 14H further provides that “a direct conflict would exist if a reasonable shareholder could not logically vote in favor of both proposals, i.e., a vote for one proposal is tantamount to a vote against the other proposal.” SLB 14H provides two examples of stockholder proposals that would be excludable under this standard:

- a proposal seeking a vote against a merger would conflict with a company proposal asking stockholders to approve such merger; and
- a proposal requesting that a company separate the roles of its chairman and chief executive officer would conflict with a company proposal to require that the chief executive officer also serve as the company’s chairman.

SLB 14H also confirmed that a “precatory shareholder proposal” would present a direct conflict, and therefore be subject to exclusion under Rule 14a-8(i)(9), if a vote in favor of the stockholder proposal would be tantamount to a vote against the company’s proposal.

Consistent with the examples described above and laid out in SLB 14H, here, the Stockholder Proposal is in direct conflict with both the Certificate Amendment and the Company Proposal. The Stockholder Proposal seeks to establish a right of 10% of the stockholders to call a special meeting, while the Certificate Amendment seeks to approve and the Company Proposal seeks to ratify the Board’s adoption of the right of stockholders who hold, in the aggregate, 20% of the voting power of the outstanding shares of the Company to call a special meeting. A rational stockholder could not logically vote for both the Stockholder Proposal and either the Certificate Amendment or the Company Proposal because they present mutually exclusive choices. A rational stockholder cannot logically vote in favor of a proposal asking the Company to adopt a 10% ownership threshold to call a special meeting while at the same time voting to ratify the Board’s implementation of a 20% ownership threshold for the same purpose.

Allowing the Company to exclude the Stockholder Proposal pursuant to Rule 14a-8(i)(9) would be consistent with the Staff’s treatment of comparable conflicts between stockholder and management proposals both before and after the issuance of SLB 14H. Most significantly, the Staff recently permitted exclusion under Rule 14a-8(i)(9) of two substantially similar proposals to reduce the percentage of stockholders required to call a special meeting of stockholders because each proposal conflicted with a management proposal to ratify the company’s standard. See *CF Industries Holdings, Inc.* (avail. Jan. 30, 2018) (permitting exclusion under Rule 14-8(i)(9) of a stockholder proposal to give holders of 10% of the company’s outstanding common stock the power to call a special shareholder meeting because it “directly conflicts with management’s proposal” to ratify the company’s threshold of 25%, “because a reasonable shareholder could not logically vote in favor of both proposals”) and *AES Corp.* (avail. Dec. 19, 2017) (same).

Please see also:

- *Huron Consulting Group Inc.* (avail. Jan. 4, 2017), permitting exclusion under Rule 14a-8(i)(9) of a stockholder proposal to replace the company's auditor because the stockholder proposal directly conflicted with management's proposal to ratify the appointment of the auditor;
- *Medizone International, Inc.* (avail. Oct. 7, 2016), permitting exclusion under Rule 14a-8(i)(9) of a stockholder proposal to increase the number of the company's authorized shares by 55 million because the stockholder proposal conflicted with management's proposal to increase the number of authorized shares by 105 million; and
- *Illumina, Inc.* (avail. Mar. 18, 2016), permitting exclusion under Rule 14a-8(i)(9) of a stockholder proposal to remove all supermajority voting standards from the company's charter and bylaws because the proposal directly conflicted with management's proposal to ratify such standards.

These recent no-action response letters are also consistent with Staff precedent prior to the issuance of SLB 14H allowing the exclusion under Rule 14a-8(i)(9) of stockholder proposals regarding governance measures that directly conflicted with management proposals.

Please see:

- *Equinix, Inc.* (avail. Mar. 17, 2011), permitting exclusion under Rule 14a-8(i)(9) of a stockholder proposal to alter the company's voting standards because it conflicted with a management proposal seeking to implement different voting standards;
- *Herley Industries, Inc.* (avail. Nov. 20, 2007), permitting exclusion under Rule 14a-8(i)(9) of a stockholder proposal to establish a majority vote standard for director elections because it conflicted with a management proposal to maintain the company's existing plurality vote standard for director elections and add a director resignation policy to the company's bylaws; and
- *The Bureau of National Affairs, Inc.* (avail. Feb. 21, 1995), permitting exclusion under Rule 14a-8(i)(9) of a stockholder proposal requesting that the company retain an independent advisor for the purpose of facilitating a sale of the company because it conflicted with a management proposal providing that the board of directors would not actively solicit offers to sell the company or hire a broker or financial adviser for that purpose.

As with the precedent letters discussed above, it would be impossible for a rational stockholder to logically vote in favor of both the Stockholder Proposal and either the Certificate Amendment or the Company Proposal, as a vote for the Stockholder Proposal would be tantamount to a vote against the Certificate Amendment and the Company Proposal. Because

the Stockholder Proposal seeks to take an approach that is mutually exclusive to the approach of each of the Certificate Amendment and the Company Proposal regarding the right of stockholders to call a special meeting, presenting the Stockholder Proposal in the Proxy Materials could result in directly conflicting mandates for the Board if the Stockholder Proposal and either of the Certificate Amendment or the Company Proposal receive sufficient votes to be adopted. It would be impossible for the Board to know whether the Company's stockholders prefer that the Bylaws be amended again in order to lower the ownership threshold for calling a special meeting to 10%, as requested by the Proponent, or that the 20% ownership threshold included in the Bylaw Amendments be ratified and maintained.

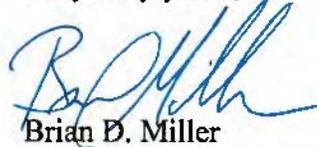
\* \* \* \*

For the foregoing reasons, the Company believes that it may properly exclude the Stockholder Proposal from the Proxy Materials under Rule 14a-8(i)(9).

If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning this matter prior to the determination of the Staff's final position. In addition, the Company requests that the Proponent copy the undersigned on any response it may choose to make to the Staff, pursuant to Rule 14a-8(k).

Please contact Brian Miller of Latham & Watkins LLP at (202) 637-2332 to discuss any questions you may have regarding this matter.

Very truly yours,



Brian D. Miller  
of LATHAM & WATKINS LLP

Enclosures

cc: John Chevedden  
Kenneth Wimberly, American Airlines Group Inc.  
Tony Richmond, Latham & Watkins LLP

**Exhibit A**

**Proposal from John Chevedden**

[AAL – Rule 14a-8 Proposal, January 1, 2018]1-1

[This line and any line above it is not for publication.]

**Proposal [4] – Special Shareholder Meeting Improvement**

Resolved, Shareowners ask our board to take the steps necessary (unilaterally if possible) to amend our bylaws and each appropriate governing document to give holders in the aggregate of 10% of our outstanding common stock the power to call a special shareowner meeting (or the closest percentage to 10% according to state law). This proposal does not impact our board’s current power to call a special meeting.

Special meetings allow shareowners to vote on important matters, such as electing new directors that can arise between annual meetings. This proposal topic won more than 70%-support at Edwards Lifesciences and SunEdison in 2013.

American Airlines shareholders currently do not have the full right to call a special meeting that is available under Delaware law. Plus the current shareholder right to call a special meeting is further restricted by 2500-words of tedious text in our bylaws.

A shareholder ability to call a special meeting would put shareholders in a better position to ask for improvement in our board of directors after the 2018 annual meeting.

For instance, Mr. Ibarguen was designated a “flagged director” due to his involvement with the AMR Corporation board, which filed for Chapter 11 Bankruptcy in 2011. Mr. Benjamin was designated a “flagged director” due to his involvement with the Caesars Entertainment board, which placed its largest operating unit into bankruptcy in 2015. Mr. Schifter was designated a “flagged director” due to his involvement with the US Airways board, which filed for bankruptcy in 2004.

Limits on shareholder influence include our company's lack of a full majority director election standard requiring automatic removal of directors who fail to receive a majority of votes cast in uncontested elections. In 2014, it was reported the company took a \$600 million loss on fuel hedging.

Please vote to increase management accountability to shareholders:

**Special Shareholder Meeting Improvement – Proposal [4]**

[The line above is for publication.]

John Chevedden,  
proposal.

sponsors this

Notes:

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

**We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.**

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email

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## **Exhibit B**

### **Proposed Bylaw Amendments**

Section 2 of Article II shall be deleted in its entirety and replaced with the following:

#### **SECTION 2. Special Meetings of Stockholders.**

(a) Unless otherwise required by law or the Restated Certificate of Incorporation, as the same may be amended, restated or supplemented from time to time (the “Certificate of Incorporation”), special meetings of the stockholders for any purpose or purposes may be called only (i) by the Chairman of the Board of Directors, (ii) by the Board of Directors, (iii) by the Chief Executive Officer or (iv) by the Secretary of the Corporation, following his or her receipt of one or more written demands to call a special meeting of the stockholders in accordance with, and subject to, this Article II, Section 2 from stockholders of record as of the record date fixed in accordance with Article II, Section 4(d) who hold, in the aggregate, at least 20% (the “Requisite Percentage”) of the voting power of the outstanding shares of the Corporation (the “Requesting Group”). The notice of a special meeting shall state the purpose or purposes of the special meeting, and the business to be conducted at the special meeting shall be limited to the purpose or purposes stated in the notice. Except in accordance with this Article II, Section 2, stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders. Stockholders who nominate persons for election to the board of directors at a special meeting must also comply with the requirements set forth in Article III, Sections 2 and 7.

(b) No stockholder may demand that the Secretary of the Corporation call a special meeting of the stockholders pursuant to Article II, Section 2(a) unless a stockholder of record has first submitted a request in writing that the Board of Directors fix a record date (a “Demand Record Date”) for the purpose of determining the stockholders entitled to demand that the Secretary of the Corporation call such special meeting, which request shall be in proper form and delivered to, or mailed and received by, the Secretary of the Corporation at the principal executive offices of the Corporation.

(c) To be in proper form for purposes of this Article II, Section 2, a request by a stockholder for the Board of Directors to fix a Demand Record Date shall set forth:

(i) As to each Requesting Person (as defined below), the Stockholder Information (as defined in Article II, Section 7(c)(i)), except that for purposes of this Article II, Section 2 the term “Requesting Person” shall be substituted for the term “Proposing Person” in all places it appears in Article II, Section 7(c)(i) and Section 7(c)(ii);

(ii) As to each Requesting Person, any Disclosable Interests (as defined in Article II, Section 7(c)(ii)), except that for purposes of this Article II, Section 2 the term “Requesting Person” shall be substituted for the term “Proposing Person” in all places it appears in Article II, Section 7(c)(ii) and the disclosure in clause (I) of Article II, Section 7(c)(ii)

shall be made with respect to the business proposed to be conducted at the special meeting or the proposed election of directors at the special meeting, as the case may be);

(iii) As to each item of business that the Requesting Person proposes to bring before the special meeting, (A) a brief description of the business desired to be brought before the special meeting, the reasons for conducting such business at the special meeting and any material interest in such business of each Requesting Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration), and (C) a reasonably detailed description of all agreements, arrangements, discussions and understandings (x) between or among any of the Requesting Persons or (y) between or among any Requesting Person and any other record or beneficial holder(s) or persons(s) who have a right to acquire beneficial ownership at any time in the future of the shares of any class or series of the Corporation (including their names) in connection with the proposal of such business by such stockholder, and (D) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act; provided, however, that the disclosures required by this paragraph (iii) shall not include any disclosures with respect to any broker, dealer, commercial bank, trust company or other nominee who is a Requesting Person solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner; and

(iv) If directors are proposed to be elected at the special meeting, the Nominee Information for each person whom a Requesting Person expects to nominate for election as a director at the special meeting.

For purposes of this Article II, Section 2(c), the term “Requesting Person” shall mean (i) the stockholder making the request to fix a Demand Record Date for the purpose of determining the stockholders entitled to demand that the Secretary call a special meeting, (ii) each member of the Requesting Group, (iii) the beneficial owner or beneficial owners, if different, on whose behalf such request is made, (iv) any affiliate or associate of such stockholder or beneficial owner and (v) any other person with whom such stockholder or beneficial owner (or any of their respective affiliates or associates) is Acting in Concert (as defined in Article II, Section 7(c)).

(d) Within ten days after receipt of a request to fix a Demand Record Date in proper form and otherwise in compliance with this Article II, Section 2 from any stockholder of record, the Board of Directors may adopt a resolution fixing a Demand Record Date for the purpose of determining the stockholders entitled to demand that the Secretary of the Corporation call a special meeting, which date shall not precede the date upon which the resolution fixing the Demand Record Date is adopted by the Board of Directors. If no resolution fixing a Demand Record Date has been adopted by the Board of Directors within the ten day period after the date on which such a request to fix a Demand Record Date was received by the Secretary of the Corporation in proper form, the Demand Record Date in respect thereof shall be deemed to be the 20th day after the date on which such a request is received. Notwithstanding anything in this Article II, Section 2 to the

contrary, no Demand Record Date shall be fixed if the Board of Directors determines that the demand or demands that would otherwise be submitted following such Demand Record Date could not comply with the requirements set forth in clauses (ii), (iv), (v) or (vi) of Article II, Section 2(f).

(e) Without qualification, a special meeting of the stockholders shall not be called pursuant to Article II, Section 2(a) unless stockholders of record as of the Demand Record Date who hold the Requisite Percentage timely provide one or more demands to call such special meeting in writing and in proper form to the Secretary of the Corporation at the principal executive offices of the Corporation. Only stockholders of record on the Demand Record Date shall be entitled to demand that the Secretary of the Corporation call a special meeting of the stockholders pursuant to Article II, Section 2(a). To be timely, a stockholder's demand to call a special meeting must be delivered to, or mailed and received at, the principal executive offices of the Corporation not later than the 60th day following the Demand Record Date. To be in proper form for purposes of this Article II, Section 2, a demand to call a special meeting shall set forth (i) the business proposed to be conducted at the special meeting or the proposed election of directors at the special meeting, as the case may be, (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration), if applicable, and (iii) with respect to any stockholder or stockholders submitting a demand to call a special meeting (except for any stockholder that has provided such demand in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the "Exchange Act") by way of a solicitation statement filed on Schedule 14A) (a "Solicited Stockholder") the information required to be provided pursuant to this Article II, Section 2 of a Requesting Person. A stockholder may revoke a demand to call a special meeting by written revocation delivered to the Secretary at any time prior to the special meeting. If any such revocation(s) are received by the Secretary after the Secretary's receipt of written demands from the holders of the Requisite Percentage of stockholders, and as a result of such revocation(s), at any time there no longer are unrevoked demands from the Requisite Percentage of stockholders to call a special meeting, the Board of Directors shall have the discretion to determine whether or not to proceed with the special meeting.

(f) The Secretary shall not accept, and shall consider ineffective, a written demand from a stockholder to call a special meeting (i) that does not comply with this Article II, Section 2, (ii) that relates to an item of business to be transacted at such meeting that is not a proper subject for stockholder action under applicable law, (iii) that includes an item of business to be transacted at such meeting that did not appear on the written request that resulted in the determination of the Demand Record Date, (iv) that relates to an item of business that is identical or substantially similar to an item of business (a "Similar Item") for which a record date for notice of a stockholder meeting (other than the Demand Record Date) was previously fixed and such demand is delivered between the time beginning on the 61st day after such previous record date and ending on the one-year anniversary of such previous record date, (v) if the Board of Directors calls an annual or special meeting of stockholders (in lieu of calling the special meeting to which the written demand relates) in accordance with Article II, Section 2(g), or (vi) if a Similar

Item has been presented at the most recent annual meeting or at any special meeting held within one year prior to receipt by the Secretary of such demand to call a special meeting.

(g) After receipt of demands in proper form and in accordance with this Article II, Section 2 from a stockholder or stockholders holding the Requisite Percentage, the Board of Directors shall duly call, and determine the place, date and time of, a special meeting of stockholders for the purpose or purposes and to conduct the business specified in the demands received by the Corporation. The record date for notice and voting for such a special meeting shall be fixed in accordance with Article II, Section 8 of these Bylaws. The Board of Directors shall provide written notice of such special meeting to the stockholders in accordance with Article II, Section 8. Notwithstanding anything in these Bylaws to the contrary, the Board of Directors may (i) submit its own proposal or proposals for consideration at such a special meeting or (ii) in lieu of calling the special meeting demanded by a stockholder or stockholders holding the Requisite Percentage, present a Similar Item for stockholder approval at any other meeting of stockholders that is held within 120 days after the date on which the Corporation receives written demands for a special meeting from a stockholder or stockholders holding the Requisite Percentage.

(h) In connection with a special meeting called in accordance with this Article II, Section 2, the stockholder or stockholders (except for any Solicited Stockholder) who requested that the Board of Directors fix a record date for notice and voting for the special meeting in accordance with this Article II, Section 2 or who delivered a demand to call a special meeting to the Secretary shall further update and supplement the information previously provided to the Corporation in connection with such request or demand, if necessary, so that the information provided or required to be provided in such request or demand pursuant to this Article II, Section 2 shall be true and correct as of the record date for notice of the special meeting and as of the date that is ten business days prior to the special meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five business days after the record date for notice of the special meeting (in the case of the update and supplement required to be made as of such record date), and not later than eight business days prior to the date for the special meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the special meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten business days prior to the special meeting or any adjournment or postponement thereof).

(i) Notwithstanding anything in these Bylaws to the contrary, the Secretary shall not be required to call a special meeting pursuant to this Article II, Section 2 except in accordance with this Article II, Section 2. If the Board of Directors shall determine that any request to fix a record date for notice and voting for the special meeting or demand to call and hold a special meeting was not properly made in accordance with this Article II, Section 2, or shall determine that the stockholder or stockholders requesting that the Board of Directors fix such record date or submitting a demand to call the special meeting have not otherwise complied with this Article II, Section 2, then the Board of

Directors shall not be required to fix such record date or to call and hold the special meeting. In addition to the requirements of this Article II, Section 2, each Requesting Person shall comply with all requirements of applicable law, including all requirements of the Exchange Act, with respect to any request to fix a record date for notice and voting for the special meeting or demand to call a special meeting.

Section 7(a) of Article II shall be deleted in its entirety and replaced with the following:

(a) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) brought before the meeting by the Board of Directors and specified in a notice of meeting given by or at the direction of the Board of Directors or (ii) otherwise properly brought before the meeting by a stockholder present in person who (A) (1) was a beneficial owner of shares of the Corporation both at the time of giving the notice provided for in this Article II, Section 7 and at the time of the meeting, (2) is entitled to vote at the meeting, and (3) has complied with this Article II, Section 7 in all applicable respects, (B) properly made such proposal in accordance with Rule 14a-8 under the Exchange Act or (C) by any Eligible Stockholder (as defined in Article III, Section 8) in accordance with the procedures set forth in Article III, Section 8. The foregoing clause (ii) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. The only matters that may be brought before a special meeting are the matters specified in Article II, Section 2. For purposes of this Article II, Section 7, “present in person” shall mean that the stockholder proposing that the business be brought before the annual meeting of the Corporation, or, if the proposing stockholder is not an individual, a qualified representative of such proposing stockholder, appear at such annual meeting. A “qualified representative” of such proposing stockholder shall be, if such proposing stockholder is (i) a general or limited partnership, any general partner or person who functions as a general partner of the general or limited partnership or who controls the general or limited partnership, (ii) a trust, any trustee of the trust, or (iii) a corporation, limited liability company or other entity, any officer or person who functions as an officer of the corporation, limited liability company or other entity or any officer, director, general partner or person who functions as an officer, director or general partner of any entity ultimately in control of the corporation, limited liability company or other entity. Stockholders seeking to nominate persons for election to the Board of Directors must comply with Article III, Sections 2 and 7 or Article III, Section 8, as applicable, and this Article II, Section 7 shall not be applicable to nominations except as expressly provided in Article III, Sections 2 and 7.

\* \* \* \* \*

**Exhibit C**

**Proposed Certificate Amendment**

The second and third sentences of Article VIII shall be deleted in their entirety and replaced with the following:

Unless otherwise required by law, special meetings of the stockholders for any purpose or purposes may only be called only (i) by the Chairman of the Board of Directors, (ii) by the Board of Directors, (iii) by the Chief Executive Officer, or (iv) by the Secretary of the Corporation, following his or her receipt of one or more written demands to call a special meeting of the stockholders from stockholders of record who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Corporation determined in accordance with the provisions of the Corporation's Bylaws and who otherwise comply with such other requirements and procedures set forth in the Corporation's Bylaws, as now or hereinafter in effect.

\* \* \* \* \*

**Exhibit D**

**Proposed Company Proposal**

**PROPOSAL \_\_\_ : RATIFICATION OF SPECIAL MEETING PROVISIONS IN THE  
COMPANY’S BYLAWS**

The Board is seeking stockholder ratification for the retention of certain recently adopted provisions of the Company’s Second Amended and Restated Bylaws (the “Bylaws”) that grant stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company the ability to call a special meeting of stockholders (the “Bylaw Amendments”).

On February \_\_\_, 2018, the Board approved the Bylaw Amendments, which shall become effective upon the adoption of an amendment to the Company’s Certificate of Incorporation (the “Certificate Amendment”) by the Company’s stockholders at the 2018 annual meeting of stockholders. The Certificate Amendment will remove the existing prohibition on the right of stockholders to call a special meeting and permit stockholders who hold, in the aggregate, at least 20% of the voting power of the outstanding shares of the Company to call a special meeting of stockholders.

The Board is hereby requesting that the Company’s stockholders ratify the retention of the Bylaw Amendments that were adopted by the Company’s Board in February 2018, which grant stockholders who hold at least 20% of the outstanding shares of the Company the ability to call a special meeting of stockholders.

**The Board of Directors unanimously recommends that the stockholders vote “FOR” the  
proposal to ratify the Bylaw Amendments.**

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