

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Sarkis Jebejian, P.C.
To Call Writer Directly:
+1 212 446 5944
sarkis.jebejian@kirkland.com

601 Lexington Avenue
New York, NY 10022
United States

+1 212 446 4800

www.kirkland.com

Facsimile:
+1 212 446 4900

December 23, 2020

VIA E-MAIL: shareholderproposals@sec.gov

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

Re: Shareholder Proposal of John Chevedden

Ladies and Gentlemen:

This letter is submitted by Eli Lilly and Company (the “*Company*”) to notify the Securities and Exchange Commission (the “*Commission*”) that the *Company* intends to omit from its proxy statement and form of proxy for its 2021 Annual Meeting of Shareholders (the “*2021 Annual Meeting*” and such materials, the “*2021 Proxy Materials*”) a shareholder proposal and supporting statement (the “*Proposal*”) submitted by John Chevedden (the “*Proponent*”). We also request confirmation that the staff of the Division of Corporation Finance (the “*Staff*”) will not recommend enforcement action to the Commission if the *Company* omits the Proposal from the 2021 Proxy Materials for the reasons discussed below.

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008), we are emailing this letter to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended, we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the *Company*’s intent to omit the Proposal from the 2021 Proxy Materials. Likewise, we take this opportunity to inform the Proponent that if the Proponent elects to submit any correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be provided concurrently to the undersigned on behalf of the *Company*.

THE PROPOSAL

The Proposal sets forth the following resolution to be voted on by shareholders at the 2021 Annual Meeting:

RESOLVED: shareholders ask that our Company take all the steps necessary to reorganize the Board of Directors into one class with each director subject to election each year for a one-year term.

A copy of the Proposal is attached hereto as Exhibit A.

BACKGROUND

Under the Company's Amended Articles of Incorporation (the "*Articles of Incorporation*"), the Company's board of directors (the "*Board*") is currently classified into three classes with each director serving for a three-year term and until his or her successor is elected and duly qualified. The Company currently anticipates that, at the 2021 Annual Meeting, four directors will be elected for three-year terms expiring at the 2024 Annual Meeting of Shareholders ("*2024 Annual Meeting*"). With respect to the rest of the Company's directors, the Company anticipates that the terms of four directors would expire at the 2022 Annual Meeting of Shareholders and the terms of five directors would expire at the 2023 Annual Meeting of Shareholders.

On December 14, 2020, the Board (i) approved amendments to the Articles of Incorporation to eliminate the classification of the Board (the "*Amendments*"), (ii) directed that the Amendments be submitted to shareholders for approval at the 2021 Annual Meeting and (iii) recommended that shareholders approve the Amendments. Under the Articles of Incorporation, approval of the Amendments requires the affirmative vote of 80% of the outstanding shares of the Company's common stock. If the Amendments are approved by shareholders at the 2021 Annual Meeting, then each director elected at or prior to the 2021 Annual Meeting will serve out his or her remaining three-year term and each director elected after the 2021 Annual Meeting will serve a one-year term, and thereafter, the Company's classified board structure would be fully eliminated starting with the 2024 Annual Meeting.

If the Amendments are approved by the shareholders at the 2021 Annual Meeting, then the Company would make the required filing with the Secretary of State of Indiana promptly thereafter, at which time the Amendments would become effective. The text of the Amendments, in which deletions are indicated by strikethroughs and additions are indicated by underlining, is attached hereto as Exhibit B. Also, on December 14, 2020, the Board has approved certain conforming amendments to the Company's Bylaws ("*Bylaws*") that would become effective upon the effectiveness of the Amendments, and the text of such amendments, in which deletions are indicated by strikethroughs and additions are indicated by underlining, is attached hereto as Exhibit C.

BASIS FOR EXCLUSION

The Company hereby respectfully requests that the Staff concur in its view that the Company may exclude the Proposal from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(10), which provides that a shareholder proposal may be omitted from a company's proxy materials if "the company has already substantially implemented the proposal." As described above, on December 14, 2020, the Board approved the Amendments, directed that the Amendments be submitted to shareholders for adoption at the Company's 2021 Annual Meeting and recommended that shareholders approve the Amendments. As a result, the Company has substantially implemented the Proposal and believes the Proposal is excludable under Rule 14a-8(i)(10).

ANALYSIS

The Proposal May be Excluded Under Rule 14a-8(i)(10) Because the Company has Substantially Implemented the Proposal.

A. Rule 14a-8(i)(10) Background

Rule 14a-8(i)(10) allows a company to exclude a shareholder proposal from its proxy statement and form of proxy if the company has substantially implemented the proposal. The purpose of Rule 14a-8(i)(10) is "to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management." SEC Release No. 34-12598 (Jul. 7, 1976). Importantly, Rule 14a-8(i)(10) does not require a company to implement every detail of a proposal in order for the proposal to be excluded. The Staff has maintained this interpretation of Rule 14a-8(i)(10) since 1983, when the Commission reversed its prior position of permitting exclusion of a proposal only where a company's implementation efforts had "fully" effectuated the proposal. SEC Release No. 34-20091 (Aug. 16, 1983).

Based on this revised approach, the Staff has consistently taken the position that a proposal has been "substantially implemented" and may be excluded as moot when a company can demonstrate that it has already taken actions to address the essential elements of the proposal, and a company's policies, practices and procedures compare favorably with the guidelines of the proposal. *See, e.g., Eli Lilly and Company* (Feb. 22, 2019) ("*Eli Lilly 2019*"); *Booz Allen Hamilton Holding* (April 14, 2020); *PPG Industries, Inc.* (January 16, 2020); *Hecla Mining Company* (Mar. 1, 2019); *Costco Wholesale Corp.* (Nov. 16, 2018); *PPG Industries, Inc.* (Jan. 23, 2018); *iRobot Corp.* (Feb. 9, 2018); *AbbVie Inc.* (Dec. 22, 2016). Applying this standard, the Staff has stated that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (Mar. 28, 1991) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company subscribe to the Valdez Principles where the company had already adopted policies, practices and procedures with respect to the environment that compared favorably to the Valdez Principles).

Furthermore, the Staff has consistently concurred that a board action submitting a declassification amendment for shareholder approval substantially implements a shareholder

declassification proposal, and therefore, the shareholder proposal may be excluded from proxy materials in accordance with Rule 14a-8(i)(10). For example, in 2019, the Staff granted the Company no-action relief under Rule 14a-8(i)(10) with respect to a substantially similar shareholder proposal submitted by the Proponent. See *Eli Lilly 2019*. In *Eli Lilly 2019*, the Company argued that it had taken actions to address the essential objective of the proposal because (i) the Board approved amendments to the Articles of Incorporation to eliminate the classification of the board of directors over a three-year period beginning at the Company's 2020 annual meeting of shareholders, (ii) directed that such amendments be submitted to shareholders for approval at the Company's 2019 annual meeting of shareholders and (iii) recommended that shareholders approve such amendments. The Staff agreed with the Company and granted exclusion of the proposal under Rule 14a-8(i)(10). See also *Booz Allen Hamilton Holding* (April 14, 2020); *PPG Industries, Inc.* (January 16, 2020); *Hecla Mining Company* (Mar. 1, 2019); *Costco Wholesale Corp.* (Nov. 16, 2018); *PPG Industries, Inc.* (Jan. 23, 2018); *iRobot Corp.* (Feb. 9, 2018); *AbbVie Inc.* (Dec. 22, 2016); *Ryder System, Inc.* (Feb. 11, 2015); *St. Jude Medical, Inc.* (Feb. 3, 2015); *LaSalle Hotel Properties* (Feb. 27, 2014); *The Dun & Bradstreet Corporation* (Feb. 4, 2011); *Baxter International Inc.* (Feb. 3, 2011); *Allergan, Inc.* (Jan. 18, 2011); *AmerisourceBergen Corporation* (Nov. 15, 2010); *Textron Inc.* (Jan. 21, 2010); *Del Monte Foods Company* (June 3, 2009); and *Visteon Corporation* (Feb. 15, 2007) (each permitting exclusion of a shareholder proposal seeking to eliminate the classified board structure from the company's governing documents where (1) the board had approved amendments to the company's certificate of incorporation to eliminate the classification of the board, and (2) the company planned to submit such amendments to shareholders for approval at its next annual meeting.

B. The Company's Proposal to Amend the Articles of Incorporation to Eliminate the Classification of the Board Substantially Implements the Proposal

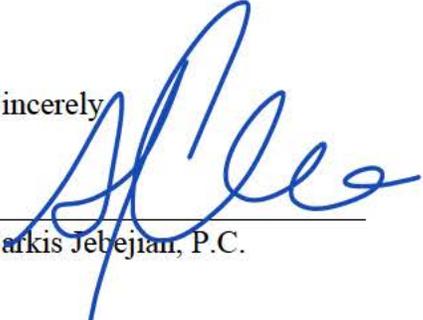
The Company has substantially implemented the Proposal because the actions already taken by the Board to implement the Amendments (and conforming amendments to the Bylaws) address the essential objective of the Proposal. More specifically, the Proposal requests that the Company "take all the steps necessary to reorganize the Board of Directors into one class with each director subject to election each year for a one-year term." The essential objective of the Proposal is to declassify the Board. The Company has addressed the essential objective of the Proposal by virtue of the Board approving the Amendments which eliminate the classification of the Board, directing that the Amendments be submitted to shareholders for approval at the Company's 2021 Annual Meeting, and recommending that shareholders approve the Amendments. The Amendments would have the same effect as the ultimate outcome sought by the Proposal—declassification of the Board. Therefore, the Board's actions substantially implement the Proposal and, accordingly the Proposal should be excluded from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(10).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that the Company may exclude the Proposal from the 2021 Proxy Materials. Should the Staff disagree with the conclusions set forth in this letter, or should you require any additional information in support of our position, we would welcome the opportunity to discuss these matters with you as

you prepare your response. Any such communication regarding this letter should be directed to Sarkis Jebejian at sarkis.jebejian@kirkland.com or (212) 446-5944.

Sincerely



Sarkis Jebejian, P.C.

cc: Anat Hakim
Senior Vice President, General Counsel and Secretary, Eli Lilly and Company

John Chevedden

EXHIBIT A

Proposal from John Chevedden

JOHN CHEVEDDEN

Ms. Bronwen L. Mantlo
Corporate Secretary
Eli Lilly and Company (LLY)
Lilly Corporate Center
Indianapolis, IN 46285
PH: 317-276-2000
PH: 317-433-5455
FX: 317-276-3492
FX: 317-277-1680

Dear Ms. Mantlo,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance—especially compared to the substantial capitalization of our company.

This proposal is for the annual shareholder meeting. Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of this proposal by email to

Sincerely,


John Chevedden

August 25, 2020
Date

cc: Crystal T. Williams <williams_crystal_tamera@lilly.com>
Assistant Corporate Secretary
Crickett Carmichael <crickett.carmichael@lilly.com>

[LLY: Rule 14a-8 Proposal, August 25, 2020]
[This line and any line above it – *Not* for publication.]

Proposal 4 – Elect Each Director Annually

RESOLVED, shareholders ask that our Company take all the steps necessary to reorganize the Board of Directors into one class with each director subject to election each year for a one-year term.

Arthur Levitt, former Chairman of the Securities and Exchange Commission said, “In my view it’s best for the investor if the entire board is elected once a year. Without annual election of each director shareholders have far less control over who represents them.”

More than 80 S&P 500 and Fortune 500 companies, worth more than \$1 trillion dollars, adopted this important proposal topic since 2012. Annual elections are widely viewed as a corporate governance best practice. Annual election of each director could make directors more accountable, and thereby contribute to improved performance and increased company value.

This proposal topic won our outstanding 83%-support at our 2018 annual meeting.

Elect Each Director Annually – Proposal 4

[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]

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



August 31, 2020

JOHN R CHEVEDDEN

Dear Mr. Chevedden:

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity Investments.

Please accept this letter as confirmation that as of the date of this letter, Mr. Chevedden has continuously owned no fewer than the share quantity listed in the following table in the following securities, since April 1, 2019.

Security Name	CUSIP	Trading Symbol	Share Quantity
Air Transport Services Group Inc	00922R105	ATSG	100.000
Deere & Co	244199105	DE	25.000
Eli Lilly and Co	532457108	LLY	50.000

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number: 0226) and Fidelity Investments subsidiary.

I hope you find this information helpful. If you have any questions regarding this issue or general inquiries regarding your account, please contact your Private Client Group Team at 800-544-5704 for assistance.

Sincerely,

Kristin Feuz
Operations Specialist

Our File: W896326-31AUG20

EXHIBIT B

Proposed Amendments to the Amended Articles of Incorporation

FOR SUBMISSION TO SHAREHOLDERS

Declassification of Board

(As amended and restated through ~~April 21, 2008~~May 3, 2021)

**ELI LILLY AND COMPANY
(an Indiana corporation)**

AMENDED ARTICLES OF INCORPORATION

1. The name of the Corporation shall be

ELI LILLY AND COMPANY.

2. The purposes for which the Corporation is formed are to engage in any lawful act or activity for which a corporation may be organized under the Indiana Business Corporation Law.

3. The period during which the Corporation is to continue as a corporation is perpetual.

4. The total number of shares which the Corporation shall have authority to issue is 3,205,000,000 shares, consisting of 3,200,000,000 shares of Common Stock and 5,000,000 shares of Preferred Stock. The Corporation's shares do not have any par or stated value, except that, solely for the purpose of any statute or regulation imposing any tax or fee based upon the capitalization of the Corporation, each of the Corporation's shares shall be deemed to have a par value of \$0.01 per share.

5. The following provisions shall apply to the Corporation's shares:

(a) The Corporation shall have the power to acquire (by purchase, redemption, or otherwise), hold, own, pledge, sell, transfer, assign, reissue, cancel, or otherwise dispose of the shares of the Corporation in the manner and to the extent now or hereafter permitted by the laws of the State of Indiana (but such power shall not imply an obligation on the part of the owner or holder of any share to sell or otherwise transfer such share to the Corporation), including the power to purchase, redeem, or otherwise acquire the Corporation's own shares, directly or indirectly, and without pro rata treatment of the owners or holders of any class or series of shares, unless, after giving effect thereto, the Corporation would not be able to pay its debts as they become due in the usual course of business or the Corporation's total assets would be less than its total liabilities (and without regard to any amounts that would be needed, if the Corporation were to be dissolved at the time of the purchase, redemption, or other acquisition, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those of the holders of the shares of the Corporation being purchased, redeemed, or otherwise acquired, unless otherwise expressly provided with respect to a series of Preferred Stock). Shares of the Corporation purchased, redeemed, or otherwise acquired by it shall constitute authorized but unissued shares, unless prior to any such purchase, redemption, or other acquisition, or

FOR SUBMISSION TO SHAREHOLDERS

Declassification of Board

within thirty (30) days thereafter, the Board of Directors adopts a resolution providing that such shares constitute authorized and issued but not outstanding shares.

(b) Preferred Stock of any series that has been redeemed (whether through the operation of a retirement or sinking fund or otherwise) or purchased by the Corporation, or which, if convertible, have been converted into shares of the Corporation of any other class or series, may be reissued as a part of such series or of any other series of Preferred Stock, subject to such limitations (if any) as may be fixed by the Board of Directors with respect to such series of Preferred Stock in accordance with the provisions of Article 7 of these Amended Articles of Incorporation.

(c) The Board of Directors of the Corporation may dispose of, issue, and sell shares in accordance with, and in such amounts as may be permitted by, the laws of the State of Indiana and the provisions of these Amended Articles of Incorporation and for such consideration, at such price or prices, at such time or times and upon such terms and conditions (including the privilege of selectively repurchasing the same) as the Board of Directors of the Corporation shall determine, without the authorization or approval by any shareholders of the Corporation. Shares may be disposed of, issued, and sold to such persons, firms, or corporations as the Board of Directors may determine, without any preemptive or other right on the part of the owners or holders of other shares of the Corporation of any class or kind to acquire such shares by reason of their ownership of such other shares.

6. The following provisions shall apply to the Common Stock:

(a) Except as otherwise provided by the Indiana Business Corporation Law and subject to such shareholder disclosure and recognition procedures (which may include voting prohibition sanctions) as the Corporation may by action of its Board of Directors establish, shares of Common Stock shall have unlimited voting rights and each outstanding share of Common Stock shall, when validly issued by the Corporation, entitle the record holder thereof to one vote at all shareholders' meetings on all matters submitted to a vote of the shareholders of the Corporation.

(b) Shares of Common Stock shall be equal in every respect insofar as their relationship to the Corporation is concerned, but such equality of rights shall not imply equality of treatment as to redemption or other acquisition of shares by the Corporation. Subject to the rights of the holders of any outstanding series of Preferred Stock, the holders of Common Stock shall be entitled to share ratably in such dividends or other distributions (other than purchases, redemptions, or other acquisitions of shares by the Corporation), if any, as are declared and paid from time to time on the Common Stock at the discretion of the Board of Directors.

(c) In the event of any liquidation, dissolution, or winding up of the Corporation, either voluntary or involuntary, after payment shall have been made to the holders of any outstanding series of Preferred Stock of the full amount to which they shall be entitled, the holders of Common Stock shall be entitled, to the exclusion of the holders of the Preferred Stock of any and all series, to share, ratably according to the number of

FOR SUBMISSION TO SHAREHOLDERS

Declassification of Board

shares of Common Stock held by them, in all remaining assets of the Corporation available for distribution to its shareholders.

7. The Board of Directors is hereby expressly authorized to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock. Before any shares of any such series are issued, the Board of Directors shall fix, and hereby is expressly empowered to fix, by the adoption and filing in accordance with the Indiana Business Corporation Law, of an amendment or amendments to these Amended Articles of Incorporation, the terms of such Preferred Stock or series of Preferred Stock, including the following:

(a) the designation of such series, the number of shares to constitute such series and the stated value thereof if different from the par value thereof;

(b) whether the shares of such series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terms of such voting rights, which may be general or limited and may include the right, under specified circumstances, to elect additional directors;

(c) the dividends, if any, payable on such series, whether any such dividends shall be cumulative, and, if so, from what dates, the conditions and dates upon which such dividends shall be payable, the preference or relation which such dividends shall bear to the dividends payable on any shares of stock of any other class or any other series of Preferred Stock;

(d) whether the shares of such series shall be subject to redemption by the Corporation and, if so, the times, prices and other conditions of such redemption;

(e) the amount or amounts payable upon shares of such series upon, and the rights of the holders of such series in, the voluntary or involuntary liquidation, dissolution or winding up, or upon any distribution of the assets, of the Corporation;

(f) whether the shares of such series shall be subject to the operation of a retirement or sinking fund and, if so, the extent to and manner in which any such retirement or sinking fund shall be applied to the purchase or redemption of the shares of such series for retirement or other corporate purposes and the terms and provisions relative to the operation thereof;

(g) whether the shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or any other series of Preferred Stock or any other securities (whether or not issued by the Corporation) and, if so, the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same, and any other terms and conditions of conversion or exchange;

(h) the limitations and restrictions, if any, to be effective while any shares of such series are outstanding upon the payment of dividends or the making of other distributions on, and upon the purchase, redemption or other acquisition by the

FOR SUBMISSION TO SHAREHOLDERS

Declassification of Board

Corporation of, the Common Stock or shares of stock of any other class or any other series of Preferred Stock;

(i) the conditions or restrictions, if any, upon the creation of indebtedness of the Corporation or upon the issue of any additional stock, including additional shares of such series or of any other series of Preferred Stock or of any other class of stock; and

(j) any other powers, preferences and relative, participating, optional and other special rights, and any qualifications, limitations and restrictions thereof.

Except to the extent otherwise expressly provided in these Amended Articles of Incorporation or required by law (i) no share of Preferred Stock shall have any voting rights other than those which shall be fixed by the Board of Directors pursuant to this Article 7 and (ii) no share of Common Stock shall have any voting rights with respect to any amendment to the terms of any series of Preferred Stock; provided however, that in the case of this clause (ii) the terms of such series of Preferred Stock, as so amended, could have been established without any vote of any shares of Common Stock.

8. The Corporation shall have the power to declare and pay dividends or other distributions upon the issued and outstanding shares of the Corporation, subject to the limitation that a dividend or other distribution may not be made if, after giving it effect, the Corporation would not be able to pay its debts as they become due in the usual course of business or the Corporation's total assets would be less than its total liabilities (and without regard to any amounts that would be needed, if the Corporation were to be dissolved at the time of the dividend or other distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those of the holders of shares receiving the dividend or other distribution, unless otherwise expressly provided with respect to any outstanding series of Preferred Stock). The Corporation shall have the power to issue shares of one class or series as a share dividend or other distribution in respect of that class or series or one or more other classes or series.

9. The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation, and it is expressly provided that the same are intended to be in furtherance and not in limitation or exclusion of the powers conferred by statute:

(a) The number of directors of the Corporation, exclusive of directors who may be elected by the holders of any one or more series of Preferred Stock pursuant to Article 7(b) (the "Preferred Stock Directors"), shall not be less than nine, the exact number to be fixed from time to time solely by resolution of the Board of Directors, acting by not less than a majority of the directors then in office.

(b) Prior to the 2022 annual meeting of directors, ~~the~~ Board of Directors (exclusive of Preferred Stock Directors) shall be divided into three classes, with the term of office of one class expiring each year. ~~At the annual meeting of shareholders in 1985, five directors of the first class shall be elected to hold office for a term expiring at the 1986 annual meeting, five directors of the second class shall be elected to hold office~~

FOR SUBMISSION TO SHAREHOLDERS

Declassification of Board

~~for a term expiring at the 1987 annual meeting, and six directors of the third class shall be elected to hold office for a term expiring at the 1988 annual meeting.~~ Commencing with the annual meeting of shareholders in ~~1986~~2022, each class of directors whose term shall then expire shall be elected to hold office for a ~~three~~one-year term expiring at the next annual meeting of shareholders. In the case of any vacancy on the Board ~~of Directors, including a vacancy created by an increase in the number~~ of directors, the vacancy shall be filled by election of the Board of Directors with the director so elected to serve for the remainder of the term of the director being replaced or, in the case of an additional director, ~~for the remainder of the term of the class to which the director has been assigned~~ until the next annual meeting of shareholders. All directors shall continue in office until the election and qualification of their respective successors in office. ~~When the number of directors is changed, any newly created directorships or any decrease in directorships shall be so assigned among the classes by a majority of the directors then in office, though less than a quorum, as to make all classes as nearly equal in number as possible.~~ No decrease in the number of directors shall have the effect of shortening the term of any incumbent director. Election of directors need not be by written ballot unless the By-laws so provide.

(c) Any director or directors (exclusive of Preferred Stock Directors) may be removed from office at any time, but only for cause and only by the affirmative vote of at least ~~80%~~a majority of the votes ~~entitled to be~~ cast by holders of all the outstanding shares of Voting Stock (as defined in Article 13 hereof), voting together as a single class.

~~(d) Notwithstanding any other provision of these Amended Articles of Incorporation or of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class of Voting Stock required by law or these Amended Articles of Incorporation, the affirmative vote of at least 80% of the votes entitled to be cast by holders of all the outstanding shares of Voting Stock, voting together as a single class, shall be required to alter, amend or repeal this Article 9.~~

10. The Board of Directors of the Corporation is exclusively authorized (a) to adopt, repeal, alter or amend the By-laws of the Corporation by the vote of a majority of the entire Board of Directors and (b) to adopt any By-laws which the Board of Directors may deem necessary or desirable for the efficient conduct of the affairs of the Corporation, including, without limitation, provisions governing the conduct of, and the matters which may properly be brought before, meetings of the shareholders and provisions specifying the manner and extent to which prior notice shall be given of the submission of proposals to be submitted at any meeting of shareholders or of nominations of elections of directors to be held at any such meeting.

11. The Corporation shall, to the fullest extent permitted by applicable law now or hereafter in effect, indemnify any person who is or was a director, officer or employee of the Corporation (an "Eligible Person") and who is or was involved in any manner (including, without limitation, as a party or a witness) or is threatened to be made so involved in any threatened, pending or completed investigation, claim, action, suit or

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Declassification of Board

proceeding, whether civil, criminal, administrative or investigative (including, without limitation, any action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor) (a "Proceeding") by reason of the fact that such person is or was a director, officer or employee of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise (including, without limitation, any employee benefit plan), against all expenses (including attorneys' fees), judgments, fines or penalties (including excise taxes assessed with respect to an employee benefit plan) and amounts paid in settlement actually and reasonably incurred by such Eligible Person in connection with such Proceeding; provided, however, that the foregoing shall not apply to a Proceeding commenced by an Eligible Person except to the extent provided otherwise in the Corporation's By-laws or an agreement with an Eligible Person. The Corporation may establish provisions supplemental to or in furtherance of the provisions of this Article 11, including, but not limited to, provisions concerning the determination of any Eligible Person to indemnification, mandatory or permissive advancement of expenses to an Eligible Person incurred in connection with a Proceeding, the effect of any change in control of the Corporation on indemnification and advancement of expenses and the funding or other payment of amounts necessary to effect indemnification and advancement of expenses, in the Bylaws of the Corporation or in agreements with any Eligible Person.

12. Except as otherwise expressly provided for in these Amended Articles of Incorporation, the Corporation reserves the right to amend, alter or repeal any provision contained in these Amended Articles of Incorporation, in the manner now or hereafter prescribed by law, and all rights conferred upon shareholders herein are subject to this reservation.

13. In addition to all other requirements imposed by law and these Amended Articles and except as otherwise expressly provided in paragraph (c) of this Article 13, none of the actions or transactions listed below shall be effected by the Corporation, or approved by the Corporation as a shareholder of any majority-owned subsidiary of the Corporation if, as of the record date for the determination of the shareholders entitled to vote thereon, any Related Person (as hereinafter defined) exists, unless the applicable requirements of paragraphs (b), (c), (d), (e), and (f) of this Article 13 are satisfied.

(a) The actions or transactions within the scope of this Article 13 are as follows:

(i) any merger or consolidation of ~~the Corporation or any of its~~ the Corporation's subsidiaries into or with such Related Person;

(ii) any sale, lease, exchange, or other disposition of all or any substantial part of the assets of ~~the Corporation or any of its~~ the Corporation's majority-owned subsidiaries to or with such Related Person;

(iii) the issuance or delivery of any Voting Stock (as hereinafter defined) or of voting securities of any of the Corporation's majority-owned subsidiaries to such

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Declassification of Board

Related Person in exchange for cash, other assets or securities, or a combination thereof;

~~(iv) any voluntary dissolution or liquidation of the Corporation;~~

(v) any reclassification of securities (including any reverse stock split), or recapitalization of the Corporation, or any merger or consolidation of the Corporation with any of its subsidiaries, or any other transaction (whether or not with or otherwise involving a Related Person) that has the effect, directly or indirectly, of increasing the proportionate share of any class or series of capital stock of the Corporation, or any securities convertible into capital stock of the Corporation or into equity securities of any subsidiary, that is beneficially owned by any Related Person; or

(vi) any agreement, contract, or other arrangement providing for any one or more of the actions specified in the foregoing clauses (i) through (v).

(b) The actions and transactions described in paragraph (a) of this Article 13 shall have been authorized by the affirmative vote of ~~at least 80% of all~~ a majority of the votes entitled to be cast by holders of all the outstanding shares of Voting Stock, voting together as a single class.

(c) Notwithstanding paragraph (b) of this Article 13, the ~~80% voting special~~ shareholder approval requirement set forth in paragraph (b) shall not be applicable if any action or transaction specified in paragraph (a) is approved by the Corporation's Board of Directors and by a majority of the Continuing Directors (as hereinafter defined).

(d) Unless approved by a majority of the Continuing Directors, after becoming a Related Person and prior to consummation of such action or transaction:

(i) the Related Person shall not have acquired from the Corporation or any of its subsidiaries any newly issued or treasury shares of capital stock or any newly issued securities convertible into capital stock of the Corporation or any of its majority-owned subsidiaries, directly or indirectly (except upon conversion of convertible securities acquired by it prior to becoming a Related Person or as a result of a pro rata stock dividend or stock split or other distribution of stock to all shareholders pro rata);

(ii) such Related Person shall not have received the benefit, directly or indirectly (except proportionately as a shareholder), of any loans, advances, guarantees, pledges, or other financial assistance or tax credits provided by the Corporation or any of its majority-owned subsidiaries, or made any major changes in the Corporation's or any of its majority-owned subsidiaries' businesses or capital structures or reduced the current rate of dividends payable on the Corporation's capital stock below the rate in effect immediately prior to the time such Related Person became a Related Person; and

(iii) such Related Person shall have taken all required actions within its power to ensure that the Corporation's Board of Directors included representation by Continuing Directors at least proportionate to the voting power of the shareholdings of Voting Stock of the Corporation's Remaining Public Shareholders (as hereinafter defined), with a

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Continuing Director to occupy an additional Board position if a fractional right to a director results and, in any event, with at least one Continuing Director to serve on the Board so long as there are any Remaining Public Shareholders.

(e) A proxy statement responsive to the requirements of the Securities Exchange Act of 1934, as amended, whether or not the Corporation is then subject to such requirements, shall be mailed to the shareholders of the Corporation for the purpose of soliciting shareholder approval of such action or transaction and shall contain at the front thereof, in a prominent place, any recommendations as to the advisability or inadvisability of the action or transaction which the Continuing Directors may choose to state and, if deemed advisable by a majority of the Continuing Directors, the opinion of an investment banking firm selected by a majority of the Continuing Directors as to the fairness (or not) of the terms of the action or transaction from a financial point of view to the Remaining Public Shareholders, such investment banking firm to be paid a reasonable fee for its services by the Corporation. The requirements of this paragraph (e) shall not apply to any such action or transaction which is approved by a majority of the Continuing Directors.

(f) For the purpose of this Article 13:

(i) the term “Related Person” shall mean any other corporation, person, or entity which beneficially owns or controls, directly or indirectly, 5% or more of the outstanding shares of Voting Stock, and any Affiliate or Associate (as those terms are defined in the General Rules and Regulations under the Securities Exchange Act of 1934) of a Related Person; provided, however, that the term Related Person shall not include (a) the Corporation or any of its subsidiaries, (b) any profit-sharing, employee stock ownership or other employee benefit plan of the Corporation or any subsidiary of the Corporation or any trustee of or fiduciary with respect to any such plan when acting in such capacity, or (c) Lilly Endowment, Inc.; and further provided, that no corporation, person, or entity shall be deemed to be a Related Person solely by reason of being an Affiliate or Associate of Lilly Endowment, Inc.;

(ii) a Related Person shall be deemed to own or control, directly or indirectly, any outstanding shares of Voting Stock owned by it or any Affiliate or Associate of record or beneficially, including without limitation, shares

a. which it has the right to acquire pursuant to any agreement, or upon exercise of conversion rights, warrants, or options, or otherwise; or

b. which are beneficially owned, directly or indirectly (including shares deemed owned through application of clause a. above), by any other corporation, person, or other entity with which it or its Affiliate or Associate has any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting, or disposing of Voting Stock, or which is its Affiliate (other than the Corporation) or Associate (other than the Corporation);

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(iii) the term “Voting Stock” shall mean all shares of any class of capital stock of the Corporation which are entitled to vote generally in the election of directors;

(iv) the term “Continuing Director” shall mean a director who is not an Affiliate or Associate or representative of a Related Person and who was a member of the Board of Directors of the Corporation immediately prior to the time that any Related Person involved in the proposed action or transaction became a Related Person or a director who is not an Affiliate or Associate or representative of a Related Person and who was nominated by a majority of the remaining Continuing Directors; and

(v) the term “Remaining Public Shareholders” shall mean the holders of the Corporation’s capital stock other than the Related Person.

(g) A majority of the Continuing Directors of the Corporation shall have the power and duty to determine for the purposes of this Article 13, on the basis of information then known to the Continuing Directors, whether (i) any Related Person exists or is an Affiliate or an Associate of another and (ii) any proposed sale, lease, exchange, or other disposition of part of the assets of the Corporation or any majority-owned subsidiary involves a substantial part of the assets of the Corporation or any of its subsidiaries. Any such determination by the Continuing Directors shall be conclusive and binding for all purposes.

(h) Nothing contained in this Article 13 shall be construed to relieve any Related Person or any Affiliate or Associate of any Related Person from any fiduciary obligation imposed by law.

(i) The fact that any action or transaction complies with the provisions of this Article 13 shall not be construed to waive or satisfy any other requirement of law or these Amended Articles of Incorporation or to impose any fiduciary duty, obligation, or responsibility on the Board of Directors or any member thereof, to approve such action or transaction or recommend its adoption or approval to the shareholders of the Corporation, nor shall such compliance limit, prohibit, or otherwise restrict in any manner the Board of Directors, or any member thereof, with respect to evaluations of or actions and responses taken with respect to such action or transaction. The Board of Directors of the Corporation, when evaluating any actions or transactions described in paragraph (a) of this Article 13, shall, in connection with the exercise of its judgment in determining what is in the best interests of the Corporation and its shareholders, give due consideration to all relevant factors, including, without limitation, the social and economic effects on the employees, customers, suppliers, and other constituents of the Corporation and its subsidiaries and on the communities in which the Corporation and its subsidiaries operate or are located.

~~(j) Notwithstanding any other provision of these Amended Articles of Incorporation or of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class of Voting Stock required by law or these Amended Articles of Incorporation, the affirmative vote of the holders of at least 80% of the votes entitled to be cast by holders of all the outstanding~~

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~~shares of Voting Stock, voting together as a single class, shall be required to alter, amend, or repeal this Article 13.~~

14. A total of 1,500,000 shares of the 5,000,000 shares of authorized Preferred Stock are designated as "Series B Junior Participating Preferred Stock" (the "Series B Preferred Stock"). Such number of shares may be increased or decreased by resolution of the Board of Directors; provided that no decrease shall reduce the number of shares of Series B Preferred Stock to a number less than the number of shares then outstanding plus the number of shares reserved for issuance upon the exercise of outstanding options, rights or warrants or upon the conversion of any outstanding securities issued by the Corporation convertible into Series B Preferred Stock. The Series B Preferred Stock shall possess the rights, preferences, qualifications, limitations, and restrictions set forth below:

(a) The holders of shares of Series B Preferred Stock shall have the following rights to dividends and distributions:

(i) Subject to the rights of the holders of any shares of any series of Preferred Stock (or any similar stock) ranking prior and superior to the Series B Preferred Stock with respect to dividends, the holders of shares of Series B Preferred Stock, in preference to the holders of Common Stock, without par value (the "Common Stock"), of the Corporation, and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the tenth day of March, June, September and December in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series B Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) \$10 or (b) subject to the provision for adjustment hereinafter set forth, 1,000 times the aggregate per share amount of all cash dividends, and 1,000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions, other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series B Preferred Stock. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event under clause (b) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

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(ii) The Corporation shall declare a dividend or distribution on the Series B Preferred Stock as provided in paragraph (A) of this Section immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock); provided that, in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of \$10 per share on the Series B Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(iii) Dividends shall begin to accrue and be cumulative on outstanding shares of Series B Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series B Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series B Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series B Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than 60 days prior to the date fixed for the payment thereof.

(b) The holders of shares of Series B Preferred Stock shall have the following voting rights:

(i) Subject to the provision for adjustment hereinafter set forth, each share of Series B Preferred Stock shall entitle the holder thereof to 1000 votes on all matters submitted to a vote of the stockholders of the Corporation. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(ii) Except as otherwise provided herein, in any other Articles of Amendment creating a series of Preferred Stock or any similar stock, or by law, the holders of shares of Series B Preferred Stock and the holders of shares of Common Stock and any other

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capital stock of the Corporation having general voting rights shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.

(iii) Except as set forth herein, or as otherwise provided by law, holders of Series B Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

(c) The Corporation shall be subject to the following restrictions:

(i) Whenever quarterly dividends or other dividends or distributions payable on the Series B Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series B Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

a. declare or pay dividends, or make any other distributions, on any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Preferred Stock;

b. declare or pay dividends, or make any other distributions, on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series B Preferred Stock, except dividends paid ratably on the Series B Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

c. redeem or purchase or otherwise acquire for consideration shares of any stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Preferred Stock, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of any stock of the Corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series B Preferred Stock; or

d. redeem or purchase or otherwise acquire for consideration any shares of Series B Preferred Stock, or any shares of stock ranking on a parity with the Series B Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(ii) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (i) of this Article 14(c), purchase or otherwise acquire such shares at such time and in such manner.

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(d) Any shares of Series B Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock subject to the conditions and restrictions on issuance set forth herein, in the Articles of Incorporation, or in any other Articles of Amendment creating a series of Preferred Stock or any similar stock or as otherwise required by law.

(e) Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made (i) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series B Preferred Stock unless, prior thereto, the holders of shares of Series B Preferred Stock shall have received the greater of (a) \$1000 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, or (b) an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to 1000 times the aggregate amount to be distributed per share to holders of shares of Common Stock, or (ii) to the holders of shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series B Preferred Stock, except distributions made ratably on the Series B Preferred Stock and all such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event under the proviso in clause (i) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(f) In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series B Preferred Stock shall at the same time be similarly exchanged or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to 1000 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series B

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Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(g) The shares of Series B Preferred Stock shall not be redeemable.

(h) The Series B Preferred Stock shall rank, with respect to the payment of dividends and the distribution of assets, junior to all series of any other class of the Corporation's Preferred Stock.

(i) The Amended Articles of Incorporation of the Corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series B Preferred Stock so as to affect them adversely without the affirmative vote of the holders of at least two-thirds of the outstanding shares of Series B Preferred Stock, voting together as a single class.

(j) In the event that the Rights Agreement dated as of July 20, 1998 between the Corporation and First Chicago Trust Company of New York, as Rights Agent (or any successor Rights Agent) is terminated or expires prior to the issuance of any shares of Series B Preferred Stock, all shares of Series B Preferred Stock shall become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock subject to the conditions and restrictions on issuance set forth in the Articles of Incorporation or in any other Articles of Amendment creating a series of Preferred Stock or any similar stock or as otherwise required by law.

15. Subject to the rights of the holders of preferred stock to elect any directors voting separately as a class or series, at each annual meeting of shareholders, the directors to be elected at the meeting shall be chosen by the majority of the votes cast by the holders of shares entitled to vote in the election at the meeting, provided a quorum is present; provided, however, that if the number of nominees exceeds the number of directors to be elected, then directors shall be elected by the vote of a plurality of the votes cast by the holders of shares entitled to vote, provided a quorum is present. For purposes of this Article 15, a "majority of votes cast" shall mean that the number of votes cast "for" a director's election exceeds the number of votes cast "against" that director's election.

EXHIBIT C

Proposed Amendments to Bylaws

ELI LILLY AND COMPANY

BYLAWS

As Amended through

~~December 16, 2019~~ May 3, 2021

ELI LILLY AND COMPANY

BYLAWS

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BYLAWS
of
ELI LILLY AND COMPANY
(An Indiana Corporation)

ARTICLE I

The Shareholders

SECTION 1.0. *Annual Meetings.* The annual meeting of the shareholders of the Corporation for the election of directors and for the transaction of such other business as properly may come before the meeting shall be held on the third Monday in April in each year; provided, however, that for a particular year the Board of Directors may designate another date not later than June 30 of that year by resolution adopted by not less than a majority of the directors then in office. Failure to hold an annual meeting of the shareholders at such designated time shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the Corporation.

SECTION 1.1. *Special Meetings.* Special meetings of the shareholders may be called at any time by the Board of Directors or the Chairman of the Board of Directors.

SECTION 1.2. *Time, Place, and Conduct of Meetings.* Each meeting of the shareholders shall be held at such time of day and place, either within or without the State of Indiana, as shall be determined by the Board of Directors. Each adjourned meeting of the shareholders shall be held at such time and place as may be provided in the motion for adjournment. The chairman of each meeting shall have sole authority to decide questions relating to the conduct of that meeting.

SECTION 1.3. *Notice of Meetings.* The Secretary shall cause a written or printed notice of the place, day and hour and the purpose or purposes of each meeting of the shareholders to be delivered or mailed (which may include by facsimile or other form of electronic communication) at least ten (10) but not more than sixty (60) days prior to the meeting, to each shareholder of record entitled to vote at the meeting, at the shareholder's address as the same appears on the records maintained by the Corporation. Notice of any such shareholders meeting may be waived by any shareholder by delivering a written waiver to the Secretary before or after such meeting. Attendance at any meeting in person or by proxy when the instrument of proxy sets forth in reasonable detail the purpose or purposes for which the meeting is called, shall constitute a waiver of notice thereof. Notice of any adjourned meeting of the shareholders of the Corporation shall not be required to be given unless otherwise required by statute.

SECTION 1.4. *Quorum.* At any meeting of the shareholders a majority of the outstanding shares entitled to vote on a matter at such meeting, represented in person or by proxy, shall constitute a quorum for action on that matter. In the absence of a quorum, the chairman of the meeting or the holders of a majority of the shares entitled to vote present in person or by proxy, or, if no shareholder entitled to vote is present in person or by proxy, any officer entitled to preside at or act as Secretary of such meeting, may adjourn such meeting from time to time, until a quorum shall be present. At any such adjourned meeting at which a quorum may be present any business may be transacted which might have been transacted at the meeting as originally called.

SECTION 1.5. *Voting*. Except as otherwise provided by statute or by the Articles of Incorporation, at each meeting of the shareholders, each holder of shares entitled to vote shall have the right to one vote for each share standing in the shareholder's name on the books of the Corporation on the record date fixed for the meeting under Section 1.7. Each shareholder entitled to vote shall be entitled to vote in person or by proxy executed in writing (which shall include facsimile) or transmitted by electronic submission by the shareholder or a duly authorized attorney in fact. The vote of shareholders approving any matter to which the provisions of Article 9(c) ~~or 9(d)~~ or Article 13 of the Articles of Incorporation or of a statute are applicable shall require the percentage of affirmative votes therein specified. All other matters, except the election of directors, shall require that the votes cast in favor of the matter exceed the votes cast opposing the matter at a meeting at which a quorum is present. In the event that more than one group of shares is entitled to vote as a separate voting group, the vote of each group shall be considered and decided separately.

SECTION 1.6. *Voting Lists*. The Secretary shall make or cause to be made, after a record date for a meeting of shareholders has been fixed under Section 1.7 and at least five (5) days before such meeting, a complete list of the shareholders entitled to vote at such meeting, arranged in alphabetical order, with the address of each such shareholder and the number of shares so entitled to vote held by each which list shall be on file at the principal office of the Corporation and subject to inspection by any shareholder entitled to vote at the meeting. Such list shall be produced and kept open at the time and place of the meeting and subject to the inspection of any such shareholder during the holding of such meeting or any adjournment. Except as otherwise required by law, such list shall be the only evidence as to who are the shareholders entitled to vote at any meeting of the shareholders. In the event that more than one group of shares is entitled to vote as a separate voting group at the meeting, there shall be a separate listing of the shareholders of each group.

SECTION 1.7. *Fixing of Record Date*. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors shall fix in advance a date as the record date for any such determination of shareholders, not more than seventy (70) days prior to the date on which the particular action requiring this determination of shareholders is to be taken. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, the determination shall, to the extent permitted by law, apply to any adjournment thereof.

SECTION 1.8. *Notice of Shareholder Business*.

(a) At an annual meeting of the shareholders, the only items of business that shall be conducted are those which are proper subjects for action by the shareholders under Indiana law and which have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a shareholder. Except for proposals properly made in accordance with Rule 14a-8 under 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”), and included in the notice of meeting given by or at the direction of the Board of Directors, the foregoing clause (iii) shall be the exclusive means for a shareholder to propose business to be brought before the meeting. For any item of business (other than nomination of a person for election as a director which is subject to Section 1.9 or Section 1.10) to be properly brought before an annual meeting by a shareholder, the shareholder proposing the item of business (a “proposing shareholder”) must (A) have beneficial ownership of the Corporation’s common stock both at the time of giving the notice provided for in this Section 1.8 and at the time of the meeting, (B) be entitled to vote at the meeting, (C) have the legal right and authority to make the proposal for consideration at the meeting, (D) have given a notice which is timely as required by subsection (b) and in proper form as required by subsection (c), and (E) appear at the meeting in person or by a designated representative to present the item of business.

(b) To be timely, a proposing shareholder’s notice must be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation not less than one hundred twenty (120) calendar days nor more than one hundred eighty (180) calendar days in advance of the date of the Corporation’s proxy statement was released to shareholders in connection with the previous year’s annual meeting of shareholders; provided, however, that in the event that no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than thirty (30) days from the date contemplated at the time of the previous year’s proxy statement, notice by the proposing shareholder to be timely must be so received not later than the close of business on the later of one hundred twenty (120) calendar days in advance of such annual meeting or ten (10) calendar days following the date on which public disclosure of the date of the meeting is first made. For purposes of this Section 1.8, Section 1.9 and Section 1.10, “public disclosure” means disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14, or 15(d) of the Exchange Act. No adjournment or postponement of an annual meeting or announcement thereof shall commence a new time period, or extend any time period, for the giving of a timely notice as described above.

(c) To be in proper form, a proposing shareholder’s notice to the Secretary shall set forth (i) the name and record address of the proposing shareholder(s); (ii) the class and number of the Corporation’s shares which are beneficially owned by the proposing shareholder(s); (iii) a brief description of any derivative instrument (as defined in IND. CODE §23-1-20-6.5 as in effect on October 18, 2010) or other agreement, arrangement, or understanding (including any swaps, warrants, short positions, profits, interests, options, hedging transactions, or borrowed or loaned shares) with respect to the Corporation’s shares, engaged in, directly or indirectly by the proposing shareholder(s), where the purpose or effect of such instrument, agreement, arrangement or understanding is to increase or decrease such shareholders’ ability to share in the profits derived from any increase in the value of the Corporation’s shares, mitigate economic exposure to changes in value of the shares, and/or increase or decrease the voting power of such shareholder(s); and (iv) as to each item of business being proposed (A) a brief description of the business to be brought before the annual meeting; (B) the reasons for conducting such business at the annual meeting; (C) the text of the proposal or business (including the text of any resolutions proposed for consideration); (D) any material interest of the proposing shareholder(s) in such business; (E) a brief description of all agreements, arrangements or understandings between or among the proposing shareholder(s) or between or among any proposing shareholder

and any other person or entity in connection with such business; (F) a representation whether the proposing shareholder intends to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding shares required to approve the proposal and/or otherwise to solicit proxies from shareholders in support of the proposal; and (G) any other information relating to each such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies by each such person with respect to the proposed business to be brought by each such person before the annual meeting pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder. For purposes of this Section 1.8 and Section 1.9 and, unless otherwise expressly required in Section 1.10, for purposes of providing information required under Section 1.10, the term "beneficial ownership" shall have the meaning specified in IND. CODE §23-1-20-3.5 as in effect on October 18, 2010;

(d) A proposing shareholder shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in the notice shall be true, correct and complete in all material respects (i) as of the record date for the meeting and (ii) as of the date that is ten (10) business days prior to the meeting or any adjournment thereof. Such updates shall be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation (A) in the case of the update required under subsection (i), not later than five (5) business days after the record date, and (B) in the case of the update required under subsection (ii), not later than seven (7) business days prior to the meeting or any adjournment thereof.

(e) No business shall be conducted at any annual meeting of shareholders except in accordance with the procedures set forth in this Section 1.8. The chairman of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of this Section 1.8, and if the chairman should so determine, he or she shall so declare to the meeting any such business not properly brought before the meeting shall not be transacted, notwithstanding that proxies may have been solicited in respect of such business.

(f) The requirements of this Section 1.8 shall apply to any item of business to be brought before an annual meeting of shareholders (other than the election of directors and any proposal properly made pursuant to Rule 14a-8 of the Exchange Act) regardless of whether the business is presented to shareholders directly at the meeting or by means of an independently financed proxy solicitation. The requirements of this Section 1.8 are included to provide the Corporation notice of a shareholder's intention to bring business before an annual meeting and shall not be construed as imposing upon any shareholder the requirement to seek approval from the Corporation as a condition precedent to bringing any such business before an annual meeting.

(g) At any special meeting of the shareholders, only such business shall be conducted as shall have been brought before the meeting by or at the direction of the Board of Directors or the Chairman of the Board of Directors.

SECTION 1.9. *Notice of Shareholder Nominees.*

(a) Only persons who are nominated by or at the direction of the Board of Directors or by shareholders in accordance with the procedures set forth in this Section 1.9 or Section 1.10 shall be eligible for election as Directors. Nominations of persons for election to the Board of Directors in accordance with this Section 1.9 may be made (i) at or prior to a meeting of shareholders by or at the direction of the Board of Directors or by any nominating committee or person appointed by or at the direction of the Board of Directors, and (ii) at an annual meeting of shareholders or a special meeting of shareholders (but only if the election of Directors is a matter specified in the notice of special meeting) by any shareholder entitled to vote for the election of Directors at the meeting who complies with the notice procedures set forth in this Section 1.9 (a “nominating shareholder”). Such nominations shall be made pursuant to a notice which is timely as required by subsection (b) and in proper form as required by subsection (c) and any person proposed to be nominated (a “proposed nominee”) must be eligible for election as required by subsection (e).

(b) To be timely, a nominating shareholder’s notice, if it relates to an annual meeting of shareholders, must be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation not less than one hundred twenty (120) calendar days nor more than one hundred eighty (180) calendar days in advance of the date of the Corporation’s proxy statement was released to shareholders in connection with the previous year’s annual meeting of shareholders; provided, however, that in the event that no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than thirty (30) days from the date contemplated at the time of the previous year’s proxy statement, notice by the nominating shareholder to be timely must be so received not later than the close of business on the later of one hundred twenty (120) calendar days in advance of such annual meeting or ten (10) calendar days following the date on which public disclosure of the date of the meeting is first made. No adjournment or postponement of an annual meeting or announcement thereof shall commence a new time period, or extend any time period, for the giving of a timely notice as described above. If the notice relates to a special meeting of shareholders, it must be delivered to or mailed and received by the Secretary of the Corporation at the principal executive offices of the Corporation not less than ninety (90) calendar days in advance of the date of the special meeting, or, if later, the tenth (10th) calendar day after public disclosure of the date of the special meeting is made.

(c) To be in proper form for purposes of this Section 1.9, a nominating shareholder’s notice shall set forth: (i) the name and record address of the nominating shareholder(s), (ii) the class and number of the Corporation’s shares which are beneficially owned by the nominating shareholder(s), (iii) a brief description of any derivative instrument (as defined in Section 1.8(c)(iii)) or any other agreement, arrangement, or understanding engaged in, directly or indirectly, by the nominating shareholder(s) with respect to the Corporation’s shares, (iv) as to each proposed nominee, (A) the proposed nominee’s name, age, business address and residence address; (B) the proposed nominee’s principal occupation or employment; (C) the class and number of the Corporation’s shares which are beneficially owned by the proposed nominee; (D) a brief description of any derivative instrument (as defined in Section 1.8(c)(iii)) or any other agreement, arrangement, or understanding engaged in, directly or indirectly, by the proposed nominee with respect to the Corporation’s shares; (E) a brief description of all material

agreements, arrangements, understandings or relationships, including all direct or indirect compensatory arrangements, between or among the proposed nominee, the nominating shareholder(s) and any of their associates or affiliates; and (F) any other information relating to the proposed nominee that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Section 14 of the Exchange Act (including without limitation the proposed nominee's written consent to being named in the proxy statement as a nominee and to serving as a director if elected).

(d) A nominating shareholder shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in the notice shall be true, correct and complete in all material respects (i) as of the record date for the meeting and (ii) as of the date that is ten (10) business days prior to the meeting or any adjournment thereof. Such updates shall be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation (A) in the case of the update required under subsection (i), not later than five (5) business days after the record date, and (B) in the case of the update required under subsection (ii), not later than seven (7) business days prior to the meeting or any adjournment thereof.

(e) To be eligible as a director of the Corporation, a proposed nominee must deliver (in accordance with the time periods prescribed for delivery of notice under paragraph (b) of this Section 1.9) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of the proposed nominee (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that the proposed nominee (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "voting commitment") that has not been disclosed to the Corporation or (B) any voting commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with his or her candidacy for the Board of Directors or service or action as a director that has not been disclosed therein, and (iii) will comply with applicable law and listing standards, all of the Corporation's corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines, including with respect to hedging, and any other policies and guidelines applicable to directors.

(f) The Corporation may also require any proposed nominee to furnish such other information that the Corporation reasonably believes could be material to a reasonable shareholder's understanding of (i) the independence, or lack thereof, of such proposed nominee and (2) the qualifications or eligibility of such proposed nominee to serve as a director of the Corporation.

(g) No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 1.9 or Section 1.10. The chairman of the meeting may, if the facts warrant, determine and declare to the meeting that a

nomination was not so declared in accordance with the procedures prescribed by these Bylaws, and if the chairman should so determine, he or she shall so declare to the meeting and the defective nomination shall be disregarded, notwithstanding that proxies in respect of such nomination may have been received by the Corporation. Notwithstanding the foregoing provisions of this Section 1.9, a shareholder shall also comply with all applicable requirements of the Exchange Act with respect to the nomination of any director that is subject to this Section 1.9.

SECTION 1.10. *Proxy Access for Director Nominations.*

(a) Whenever following the 2020 annual meeting of shareholders the Board of Directors solicits proxies with respect to an annual meeting of shareholders, subject to the provisions of this Section 1.10, the Corporation shall include in its proxy statement the name, together with the Required Information (as defined in Section 1.10(b)), of any Shareholder Nominee (as defined in Section 1.10(b)) identified in a notice (the “Notice of Proxy Access Nomination”) that (i) is submitted within the time period and in the manner specified in Section 1.10(b) for notices of nominations under this Section 1.10 (ii) is delivered by a shareholder (or group of shareholders) that at the time the request is delivered satisfies, or is acting on behalf of persons that satisfy, the ownership and other requirements of this Section 1.10 (such shareholder or group of shareholders, and any person on whose behalf they are acting, the “Eligible Shareholder”), and (iii) expressly proposes a Shareholder Nominee for election to the Board of Directors and elects at the time of providing the Notice of Proxy Access Nomination to have the Shareholder Nominee included in the Corporation’s proxy materials pursuant to this Section 1.10.

(b) For purposes of this Section 1.10, a “Shareholder Nominee” shall mean a person properly and timely nominated to serve as a director by an Eligible Shareholder in accordance with this Section 1.10. The “Required Information” that the Corporation will include in its proxy statement is (i) the information concerning the Shareholder Nominee and the Eligible Shareholder that, as determined by the Corporation, would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder, and (ii) if the Eligible Shareholder so elects, a Statement (as defined in Section 1.10(g)). To be timely, an Eligible Shareholder’s Notice of Proxy Access Nomination must be delivered to or mailed and received by the Secretary, at the principal executive offices of the Corporation not less than one hundred twenty (120) calendar days nor more than one hundred fifty (150) calendar days in advance of the date the Corporation’s proxy statement was released to shareholders in connection with the previous year’s annual meeting of shareholders (the last day on which such a nomination may be so delivered, the “Final Proxy Access Nomination Date”); provided, however, that in the event that no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than thirty (30) days from the date contemplated at the time of the previous year’s proxy statement, to be timely the Eligible Shareholder must deliver the Notice of Proxy Access Nomination (x) not earlier than one hundred fifty (150) calendar days in advance of such annual meeting and not later than the close of business on the date one hundred twenty (120) calendar days in advance of such annual meeting or (y) if later, within ten (10) calendar days following the date on which public disclosure of the date of meeting is first made. No adjournment or postponement of an annual

meeting or announcement thereof shall commence a new time period, or extend any time period, for the timely delivery of a Notice of Proxy Access Nomination by an Eligible Shareholder under this Section 1.10.

(c) The maximum number of Shareholder Nominees (the “Permitted Number”) that may be included in the Corporation’s proxy materials pursuant to this Section 1.10 shall not exceed the greater of two or twenty (20) percent of the number of directors serving on the Board of Directors as of the Final Proxy Access Nomination Date (or if such amount is not a whole number, rounded down to the nearest whole number), provided that in no circumstance shall the Permitted Number exceed the number of directors to be elected at the applicable annual meeting as noticed by the Corporation. The following persons shall be considered Shareholder Nominees for purposes of determining when the Permitted Number of Shareholder Nominees provided for in this Section 1.10 has been reached: (1) any Shareholder Nominee that was submitted by an Eligible Shareholder for inclusion in the Corporation’s proxy materials pursuant to this Section 1.10 whom the Board of Directors decides to nominate as a director (a “Board Nominee”), (2) any Shareholder Nominee whose nomination is subsequently withdrawn and (3) any director who had been a Shareholder Nominee at any of the preceding three annual meetings and whose reelection at the upcoming annual meeting of shareholders is being recommended by the Board of Directors. In the event that (i) one or more vacancies for any reason occurs on the Board of Directors at any time after Final Proxy Access Nomination Date and before the annual meeting date and (ii) the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Permitted Number shall be calculated based on the number of directors in office as so reduced. Any Eligible Shareholder submitting more than one Shareholder Nominee for inclusion in the Corporation’s proxy materials pursuant to this Section 1.10 shall rank such Shareholder Nominees based on the order in which the Eligible Shareholder desires such Shareholder Nominees to be selected for inclusion in the Corporation’s proxy materials in the event that the total number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this Section 1.10 exceeds the Permitted Number. In the event that the number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this Section 1.10 exceeds the Permitted Number, the highest ranking Shareholder Nominee who meets the requirements of this Section 1.10 from each Eligible Shareholder will be selected for inclusion in the Corporation’s proxy materials until the Permitted Number is reached. Shareholder Nominees shall be ranked for this purpose in order of the amount (largest to smallest) of shares of voting capital stock of the Corporation each Eligible Shareholder disclosed as owned in its Notice of Proxy Access Nomination. If the Permitted Number is not reached after the highest ranking Shareholder Nominee who meets the requirements of this Section 1.10 from each Eligible Shareholder has been selected, then the next highest ranking Shareholder Nominee who meets the requirements of this Section 1.10 from each Eligible Shareholder will be selected for inclusion in the Corporation’s proxy materials, and this process will continue as many times as necessary, following the same order each time, until the Permitted Number is reached.

(d) To be an Eligible Shareholder, the shareholder (or group of shareholders) must (i) have owned (as defined in Section 1.10(e)) continuously for at least three years a number of shares consisting of three percent or more of the Corporation’s outstanding capital stock that are entitled to vote for the election of all directors measured as of the date the Notice of Proxy Access Nomination is received by the Corporation in accordance with this Section 1.10 (the “Required Shares”), (ii) continue to own the Required Shares as of the record date for the annual

meeting of shareholders and (iii) continue to own the Required Shares through the date of the annual meeting of shareholders for which the Shareholder Nominee is being proposed. For purposes of satisfying the foregoing ownership requirement under this Section 1.10, the shares of capital stock owned by one or more shareholders, or by the person or persons that own shares of the Corporation's capital stock and on whose behalf any shareholder is acting, may be aggregated, provided that the number of shareholders and other persons whose ownership of shares is aggregated for such purpose shall not exceed twenty (20). If two or more funds are (x) under common management and investment control, (y) under common management and funded primarily by the same employer or (z) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended (an "Investment Company Group"), they shall be treated as one owner for the purpose of determining the aggregate number of shareholders in this paragraph. With respect to any one annual meeting of shareholders, no person may be a member of more than one group of persons constituting an Eligible Shareholder under this Section 1.10.

(e) For purposes of this Section 1.10, an Eligible Shareholder shall be deemed to "own" only those outstanding shares of the Corporation's capital stock as to which the shareholder possesses both (i) the full voting and investment rights pertaining to the shares and (ii) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (x) sold by such Eligible Shareholder or any of its affiliates in any transaction that has not been settled or closed, (y) borrowed by such Eligible Shareholder or any of its affiliates for any purposes or purchased by such Eligible Shareholder or any of its affiliates pursuant to an agreement to resell or (z) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such shareholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation's capital stock, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (1) reducing in any manner, to any extent or at any time in the future, such shareholder's or affiliates' full right to vote or direct the voting of any such shares, or (2) hedging, offsetting or altering to any degree gain or loss arising from the full economic ownership of such shares by such shareholder or affiliate. An Eligible Shareholder shall "own" shares held in the name of a nominee or other intermediary so long as the shareholder 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. A person's ownership of shares shall be deemed to continue during any period in which (i) the person has loaned such shares, provided that the person has the power to recall such loaned shares on no more than three business days' notice, the person recalls such loaned shares within three business days of being notified that any of its Shareholder Nominees will be included in the proxy materials; or (ii) the person has delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement that is revocable at any time by the person. For purposes of this Section 1.10, the term "affiliate" shall have the meaning ascribed thereto in the regulations promulgated under the Exchange Act.

(f) The Eligible Shareholder (including each member of a group of persons that is an Eligible Shareholder) must provide with its timely Notice of Proxy Access Nomination the following information in writing to the Secretary (in addition to the information required to be provided by 1.10(b)): (i) all information that would be required to be provided by a nominating

shareholder under Section 1.9(c) (ii) documentation satisfactory to the Corporation, including one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period), verifying that, as of a date within seven calendar days prior to the date the Notice of Proxy Access Nomination is received by the Corporation, the Eligible Shareholder owns, and has owned continuously for the preceding three years, the Required Shares, as well as the Eligible Shareholder's agreement to provide, (A) within five business days after the record date for the annual meeting of shareholders, written statements from the record holder and any intermediaries verifying the Eligible Shareholder's continuous ownership of the Required Shares through the record date, and (B) immediate notice if the Eligible Shareholder ceases to own any of the Required Shares prior to the date of the applicable annual meeting of shareholders, (iii) documentation satisfactory to the Corporation demonstrating that a group of funds treated as one shareholder for purposes of this Section 1.10 are (x) under common management and investment control, (y) under common management and funded primarily by the same employer or (z) an Investment Company Group, (iv) the written consent of each Shareholder Nominee to be named in the proxy statement as a nominee to serve as a director, if elected, (v) a copy of the Schedule 14N that has been, or is concurrently being, filed with the Securities and Exchange Commission as required by Rule 14a-18 under the Exchange Act, (vi) in the case of a nomination by an Eligible Shareholder comprised of a group of shareholders, the designation by all group members of one such member that is authorized to receive communications, notices and inquiries from the Corporation and to act on behalf of all members of the group with respect to the nomination and all matters related thereto, including withdrawal of the nomination, (vii) representations that the Eligible Shareholder (including each member of any group of shareholders that together is an Eligible Shareholder hereunder) (A) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the Corporation, and does not presently have such intent, (B) has not nominated and will not nominate for election to the Board of Directors at the annual meeting of shareholders any person other than a Shareholder Nominee being nominated pursuant to this Section 1.10 (including, with respect to each member of a group of shareholders that together is an Eligible Shareholder, that such member is not a member of more than one group of persons seeking to make a nomination to such annual meeting under this Section 1.10), (C) has not engaged and will not engage in, and has not and will not be a "participant" in, another person's "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the annual meeting of shareholders other than its Shareholder Nominee or a Board Nominee, (D) will not distribute to any shareholder any form of proxy for the annual meeting of shareholders other than the form distributed by the Corporation, (E) intends to continue to own the Required Shares through the date of the annual meeting of shareholders and for at least one year following such annual meeting, (F) has provided and will provide facts, statements and other information in all communications with the Corporation and its shareholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, (G) is not and will not become party to any voting commitment that has not been disclosed to the Corporation or that could limit or interfere with a Shareholder Nominee's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, and (H) is not and will not become a party to any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity other than the

Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation, and (viii) an undertaking that the Eligible Shareholder agrees to (A) assume all liability stemming from any legal or regulatory violation arising out of the Eligible Shareholder's communications with the Corporation's shareholders or out of the information that the Eligible Shareholder provided to the Corporation, (B) indemnify and hold harmless the Corporation and each of its directors, officers and employees individually against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Eligible Shareholder pursuant to this Section 1.10 or any solicitation or other activity in connection therewith, (C) file with the Securities and Exchange Commission all soliciting and other materials as required under Section 1.10(j), and (D) comply with all other applicable laws, rules, regulations and listing standards with respect to any solicitation in connection with the annual meeting of shareholders.

(g) The Eligible Shareholder may provide to the Secretary, no later than the Final Proxy Access Nomination Date, one written statement for inclusion in the Corporation's proxy statement for the annual meeting of shareholders, not to exceed five hundred (500) words, in support of a Shareholder Nominee's candidacy (the "Statement"). Notwithstanding anything to the contrary contained in this Section 1.10, the Corporation may omit from its proxy materials any information or statement (or portion thereof) that it believes would violate any applicable law, rule, regulation or listing standard, or any information or statement (or portion thereof) that it believes is untrue in any material respect (or omits to state a material fact necessary in order to make the statements made, in light of the circumstances, not misleading).

(h) Within the time period specified in this Section 1.10 to provide a Notice of Proxy Access Nomination, a Shareholder Nominee must deliver to the Secretary at the principal executive offices of the Corporation a written representation and agreement that such person (i) is not and will not become a party to any voting commitment that has not been disclosed to the Corporation or any voting commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with his or her candidacy for the Board of Directors or his or her service or action as a director that has not been disclosed to the Corporation, and (iii) will comply with applicable law and listing standards, all of the Corporation's corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines, including with respect to hedging, and any other policies and guidelines applicable to directors. At the request of the Corporation, the Shareholder Nominee must submit all completed and signed questionnaires required of the Corporation's directors. The Corporation may also require any Shareholder Nominee to furnish such other information as may reasonably be required by the Corporation as necessary to permit the Board of Directors to determine whether each Shareholder Nominee (A) is independent under applicable law, applicable listing standards, any applicable rules or regulations of the Securities and Exchange Commission and any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Corporation's directors, including with respect to heightened independence requirements for any board committee (collectively, the

“Applicable Independence Standards”), (B) has any direct or indirect relationship with the Corporation other than any relationship deemed pursuant to the Applicable Independence Standards or Item 404 of Regulation S-K to be categorically immaterial and (C) is or has been subject to any event specified in Item 401(f) of Regulation S-K or any order of the type specified in Rule 506(d) of Regulation D under the Securities Act of 1933, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the “Securities Act”). The Corporation may also require any Shareholder Nominee to furnish such other information that the Corporation reasonably believes could be material to a reasonable shareholder’s understanding of (i) the independence, or lack thereof, of such Shareholder Nominee and (2) the qualifications or eligibility of such Shareholder Nominee to serve as a director of the Corporation. In the event that any information or communications provided by the Eligible Shareholder or Shareholder Nominee to the Corporation or its shareholders ceases to be true and correct in any respect, or omits a fact necessary to make the statements made, in light of the circumstances under which they are made, not misleading, each Eligible Shareholder or Shareholder Nominee, as the case may be, shall promptly notify the Secretary of any such inaccuracy or omission and of the information that is required to make such information true and correct.

(i) The Corporation shall not be required to include, pursuant to this Section 1.10, a Shareholder Nominee in its proxy materials (or, if the proxy statement has already been filed, to allow the nomination of a Shareholder Nominee, notwithstanding that proxies in respect of such vote may have been received by the Corporation) (i) for any annual meeting of shareholders for which the Secretary receives a notice that the Eligible Shareholder or any other shareholder has nominated a person for election to the Board of Directors pursuant to the requirements of Section 1.9 and does not expressly elect at the time of providing such notice to have its nominee included in the Corporation’s proxy materials pursuant to this Section 1.10, (ii) if the Eligible Shareholder that has nominated such Shareholder Nominee has engaged in or is currently engaged in, or has been or is a “participant” in another person’s “solicitation” within the meaning of Rule 14a-1(l) of the Exchange Act in support of the election of any individual as a director at the annual meeting of shareholders other than its Shareholder Nominee or a Board Nominee, (iii) if the Shareholder Nominee is or becomes a party to any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity other than the Corporation, or is receiving or will receive any such compensation or other payment from any person or entity other than the Corporation, in each case in connection with service as a director of the Corporation that has not been disclosed to the Corporation, (iv) who is not independent under the Applicable Independence Standards, as determined by the Board of Directors, (v) whose election as a member of the Board of Directors would cause the Corporation to be in violation of these Bylaws, the Amended Articles of Incorporation, applicable stock exchange rules and regulations, or any applicable state or federal law, rule or regulation, (vi) who is or has been, within the past three years, a director or officer of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, (vii) whose then-current or within the preceding 10 years’ business or personal interests place such Shareholder Nominee in a conflict of interest with the Corporation or any of its subsidiaries that could materially limit the Shareholder Nominee’s ability to act as a director of the Corporation with due care and undivided loyalty, as determined by the Board of Directors; (viii) who is a named subject of a pending criminal proceeding (excluding minor traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten years, (ix) who is subject to any order of the type specified in Rule 506(d) of

Regulation D promulgated under the Securities Act, (x) if such Shareholder Nominee or the applicable Eligible Shareholder shall have provided information to the Corporation in respect to such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading, as determined by the Board of Directors, (xi) the Eligible Shareholder (or a qualified representative thereof) does not appear at the annual meeting of shareholders to present any nomination pursuant to this Section 1.10, or (xii) if the Eligible Shareholder or applicable Shareholder Nominee otherwise contravenes any of the agreements or representations made by such Eligible Shareholder or Shareholder Nominee or fails to comply with its obligations pursuant to Section 1.9 or this Section 1.10. The Corporation shall not be required to include in its proxy materials for an annual meeting any successor or replacement nominee proposed by an Eligible Shareholder to the extent that the Shareholder Nominee of any such shareholder fails to comply with the terms and conditions of this Section 1.10.

(j) The Eligible Shareholder (including any person that owns shares that constitute part of the Eligible Shareholder's ownership for purposes of satisfying Section 1.10(d)) shall file with the Securities and Exchange Commission any solicitation or other communication with the Corporation's shareholders relating to the annual meeting of shareholders at which the Shareholder Nominee will be nominated, regardless of whether any such filing is required under the proxy rules of the Securities and Exchange Commission or whether any exemption from filing is available for such solicitation or other communication under the proxy rules of the Securities and Exchange Commission.

(k) Any Shareholder Nominee who is included in the Corporation's proxy materials for a particular annual meeting of shareholders but (i) withdraws from or becomes ineligible or unavailable for election at such annual meeting or (ii) does not receive at least 25% of the votes cast in favor of such Shareholder Nominee's election shall, in each case, be ineligible to be a Shareholder Nominee pursuant to this Section 1.10 for the next three annual meetings of shareholders following the annual meeting for which the Shareholder Nominee has been nominated for election.

(l) Notwithstanding the foregoing, an Eligible Shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 1.10. Nothing in this Section 1.10 shall be deemed to affect any rights of the holders of any series of preferred stock of the Corporation pursuant to any applicable provision of the Amended Articles of Incorporation.

(m) The Board of Directors (and any other person, committee or other body authorized by the Board of Directors) shall have the power and authority to interpret this Section 1.10 and to make any and all determinations necessary or advisable to apply this Section 1.10 to any persons, facts or circumstances, including the power to determine (i) whether a person or group of persons qualifies as an Eligible Shareholder, (ii) whether outstanding shares of the Corporation's capital stock are "owned" for purposes of meeting the ownership requirements of this Section 1.10, (iii) whether a Notice of Proxy Access Nomination complies with the requirements of this Section 1.10, (iv) whether a person satisfies the qualifications and requirements to be a Shareholder Nominee, (v) whether inclusion of the Required Information in the Corporation's proxy statement is consistent with all applicable laws, rules, regulations and

listing standards and (vi) whether any and all requirements of Sections 1.9 and 1.10 have been satisfied. Any such interpretation or determination adopted in good faith by the Board of Directors (or any other person, committee or other body authorized by the Board of Directors) shall be conclusive and binding on all persons.

ARTICLE II

Board of Directors

SECTION 2.0. *General Powers.* The property, affairs and business of the Corporation shall be managed under the direction of the Board of Directors.

SECTION 2.1. *Number and Qualifications.* The number of directors which shall constitute the whole Board of Directors shall be sixteen (16), which number may be either increased or diminished by resolution adopted by not less than a majority of the directors then in office; provided that the number may not be diminished below nine (9) and no reduction in number shall have the effect of shortening the term of any incumbent director. In the event that the holders of shares of preferred stock become entitled to elect two directors, the number of directors and the minimum number of directors shall be increased by two. Neither ownership of stock of the Corporation nor residence in the State of Indiana shall be required as a qualification for a director.

SECTION 2.2. *Classes of Directors and Terms.* Prior to the 2022 annual meeting of directors, ~~the~~ directors shall be divided into three classes as nearly equal in number as possible. ~~Except as provided in Article 9 of the Articles of Incorporation fixing one, two, and three year terms for the initial classified board, and~~ each class of directors shall be elected for a term of three (3) years. Commencing with the 2022 annual meeting of shareholders, each class of directors whose terms shall then expire shall be elected to hold office for a one (1)-year term expiring at the next annual meeting of shareholders. In the event of vacancy, ~~either~~ by death, resignation, or removal of a director, ~~or by reason of an increase in the number of directors,~~ each replacement or new director shall serve for the balance of the term of the ~~class of the~~ director he or she succeeds ~~or,~~ in the event of vacancy caused by an increase in the number of directors, of the class to which he or she is assigned new director shall serve until the next annual meeting of shareholders. All directors elected for a term shall continue in office until the election and qualification of their respective successors, their death, their resignation in accordance with Section 2.6, their removal in accordance with Section 2.7, or if there has been a reduction in the number of directors and no successor is to be elected, until the end of the term. The classes and terms of the directors shall not be governed by IND. CODE §23-1-33-6(c).

SECTION 2.3. *Election of Directors.* Subject to the rights of the holders of preferred stock to elect any directors voting separately as a class or series, at each annual meeting of shareholders, the directors to be elected at the meeting shall be chosen by the majority of the votes cast by the holders of shares entitled to vote in the election at the meeting, provided a quorum is present; provided, however, that if the number of nominees exceeds the number of directors to be elected, then directors shall be elected by the vote of a plurality of the votes cast by the holders of shares entitled to vote, provided a quorum is present. For purposes of this Section 2.3, a “majority of votes cast” shall mean that the number of votes cast “for” a director’s

election exceeds the number of votes cast “against” that director’s election. If a nominee fails to receive the required vote and is an incumbent director, the director shall promptly tender his or her resignation to the Board of Directors, subject to acceptance by the Board of Directors. The Directors and Corporate Governance Committee will make a recommendation to the Board of Directors whether to accept or reject the tendered resignation, or whether other action should be taken. The Board of Directors will act on the tendered resignation, taking into account the Directors and Corporate Governance Committee’s recommendation, and publicly disclose (by a press release, a filing with the Securities and Exchange Commission, or other broadly disseminated means of communication) its decision regarding the tendered resignation and the rationale behind the decision within ninety (90) days from the date of the certification of the election results. The Directors and Corporate Governance Committee in making its recommendation and the Board of Directors in making its decision may each consider any factors or other information that they consider appropriate and relevant. The director who tenders his or her resignation will not participate in the recommendation of the Directors and Corporate Governance Committee or the decision of the Board of Directors with respect to his or her resignation. If an incumbent director’s resignation is not accepted by the Board of Directors, such director shall continue to serve until the next annual meeting of shareholders and until his or her successor is duly elected, or his or her earlier resignation or removal. If a director’s resignation is accepted by the Board of Directors, or if a nominee fails to receive the required vote and the nominee is not an incumbent director, then the Board of Directors may fill the resulting vacancy pursuant to the provisions of Article 9 of the Amended Articles of Incorporation or may decrease the size of the Board of Directors pursuant to the provisions of Article 9 of the Amended Articles of Incorporation and Section 2.2.

The election of directors by the shareholders shall be by written ballot if directed by the chairman of the meeting or if the number of nominees exceeds the number of directors to be elected.

Any vacancy on the Board of Directors shall be filled by the affirmative vote of a majority of the remaining directors.

If the holders of preferred stock are entitled to elect any directors voting separately as a class or series, those directors shall be elected by a plurality of the votes cast by the holders of shares of preferred stock entitled to vote in the election at the meeting, provided a quorum of the holders of shares of preferred stock is present.

SECTION 2.4. *Meetings of Directors.*

(a) **Annual Meeting.** Unless otherwise provided by resolution of the Board of Directors, the annual meeting of the Board of Directors shall be held at the place of and immediately following the annual meeting of shareholders, for the purpose of organization, the election of officers and the transaction of such other business as properly may come before the meeting. No notice of the meeting need be given, except in the case an amendment to the Bylaws is to be considered.

(b) **Regular Meetings.** The Board of Directors by resolution may provide for the holding of regular meetings and may fix the times and places (within or outside the State of

Indiana) at which those meetings shall be held. Notice of regular meetings need not be given except when an amendment to the Bylaws is to be considered. Whenever the time or place of regular meetings shall be fixed or changed, notice of this action shall be mailed promptly to each director not present when the action was taken, addressed to the director at his or her residence or usual place of business.

(c) **Special Meetings.** Special meetings of the Board of Directors may be called by the Chairman of the Board and shall be called by the Secretary at the request of any three (3) directors. Except as otherwise required by statute, notice of each special meeting shall be mailed to each director at his or her residence or usual place of business at least three (3) days before the day on which the meeting is to be held, or shall be sent to the director at such place by facsimile transmission or other form of electronic communication or personally delivered, not later than the day before the day on which the meeting is to be held. The notice shall state the time and place (which may be within or outside the State of Indiana) of the meeting but, unless otherwise required by statute, the Articles of Incorporation or the Bylaws, need not state the purposes thereof.

Notice of any meeting need not be given to any director, however, who shall attend the meeting, or who shall waive notice thereof, before, at the time of, or after the meeting, in a writing signed by the director and delivered to the Corporation. No notice need be given of any meeting at which every member of the Board of Directors shall be present.

SECTION 2.5. *Quorum and Manner of Acting.* A majority of the actual number of directors established pursuant to Section 2.1, from time to time, shall be necessary to constitute a quorum for the transaction of any business except the filling of vacancies on the Board of Directors under Section 2.3 or voting on a conflict of interest transaction under Section 2.12. The act of a 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 act of a greater number is required by statute, by the Articles of Incorporation, or by the Bylaws. Under the provisions of Article 13 of the Articles of Incorporation, certain actions by the Board of Directors therein specified require not only approval by the Board of Directors, but also approval by a majority of the Continuing Directors, as therein defined. Any or all directors may participate in a meeting of the Board of Directors by means of a conference telephone or similar communications equipment by which all persons participating in the meeting may simultaneously hear each other, and participation in this manner shall constitute presence in person at the meeting. In the absence of a quorum, a majority of the directors present may adjourn the meeting from time to time until a quorum shall be present. No notice of any adjourned meeting need be given.

SECTION 2.6. *Resignations.* Any director may resign at any time by giving written notice of resignation to the Board of Directors, the Chairman of the Board, the Chief Executive Officer, or the Secretary. Unless otherwise specified in the written notice, the resignation shall take effect upon receipt thereof and unless otherwise specified in it, the acceptance of the resignation shall not be necessary to make it effective. In addition, a director who fails to receive a majority of the votes cast at an annual meeting of shareholders at which the number of nominees does not exceed the number of directors to be elected shall tender his or her resignation subject to acceptance in accordance with Section 2.3.

SECTION 2.7. *Removal of Directors.* Any director, other than a director elected by holders of preferred stock voting as a class, may be removed from office at any time but only for cause and only upon the affirmative vote of at least ~~eighty (80) percent~~ a majority of the votes ~~entitled to be~~ cast by holders of all of the outstanding shares of Voting Stock (as defined in Article 13 of the Articles of Incorporation), voting together as a single class.

SECTION 2.8. *Action without a 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 taken by all members of the Board of Directors or such committee, as the case may be, evidenced by a written consent signed by all such members and effective on the date, either prior or subsequent to the date of the consent, specified in the written consent, or if no effective date is specified in the written consent, the date on which the consent is filed with the minutes of proceedings of the Board of Directors or committee.

SECTION 2.9. *Attendance and Failure to Object.* A director, who is present at a meeting of the Board of Directors, at which action on any corporate matter is taken, shall be presumed to have assented to the action taken, unless (a) the director's dissent shall be entered in the minutes of the meeting, (b) the director shall file a written dissent to such action with the Secretary of the meeting before adjournment thereof, or (c) the director shall forward such dissent by registered mail to the Secretary immediately after adjournment of the meeting. The right of dissent provided for by the preceding sentence shall not be available, in respect of any matter acted upon at any meeting, to a director who voted in favor of such action.

SECTION 2.10. *Special Standing Committees.* The Board of Directors, by resolution adopted by a majority of the actual number of directors elected and qualified, may designate from among its members one or more committees. Such committees shall have those powers of the Board of Directors which may by law be delegated to such committees and are specified by resolution of the Board of Directors or by committee charters approved by the Board of Directors.

SECTION 2.11. *Appointment of Auditors.* The Board of Directors or the Audit Committee of the Board of Directors, prior to each annual meeting of shareholders, shall appoint a firm of independent public accountants as auditors of the Corporation. Such appointment shall be submitted to the shareholders for ratification at the annual meeting next following such appointment. Should the shareholders fail to ratify the appointment of any firm as auditors of the Corporation, or should the Board of Directors or Audit Committee for any reason determine that any such appointment be terminated, the Board of Directors or Audit Committee shall appoint another firm of independent public accountants to act as auditors of the Corporation and such appointment shall be submitted to the shareholders for ratification at the annual or special shareholders meeting next following such appointment.

SECTION 2.12. *Transactions with Corporation.* No transactions with the Corporation in which one or more of its directors has a direct or indirect interest shall be either void or voidable solely because of such interest if any one of the following is true:

(a) the material facts of the transaction and the director's interest are disclosed or known to the Board of Directors or committee which authorizes, approves, or ratifies the

transaction by the affirmative vote or consent of a majority of the directors (or committee members) who have no direct or indirect interest in the transaction and, in any event, of at least two directors (or committee members);

(b) the material facts of the transaction and the director's interest are disclosed or known to the shareholders entitled to vote and they authorize, approve or ratify such transaction by vote; or

(c) the transaction is fair to the Corporation.

If a majority of the directors or committee members who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for purposes of taking action under subsection (a) of this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any actions taken under subsection (a) of this section.

SECTION 2.13. *Compensation of Directors.* The Board of Directors is empowered and authorized to fix and determine the compensation of directors and additional compensation for such additional services any of such directors may perform for the Corporation.

ARTICLE III

Officers

SECTION 3.0. *Officers, General Authority and Duties.* The officers of the Corporation shall be a Chairman of the Board, Chief Executive Officer, a President, two (2) or more Vice Presidents, a Secretary, a Chief Financial Officer, a Treasurer, a Chief Accounting Officer, and such other officers as may be elected or appointed in accordance with the provisions of Section 3.2. One or more of the Vice Presidents may be designated by the Board to serve as Executive Vice Presidents, Senior Vice Presidents, or Group Vice Presidents. Any two (2) or more offices may be held by the same person. All officers and agents of the Corporation, as between themselves and the Corporation, shall have such authority and perform such duties in the management of the Corporation as may be provided in the Bylaws or as may be determined by resolution of the Board of Directors not inconsistent with the Bylaws.

SECTION 3.1. *Election, Term of Office, Qualifications.* Each officer (except such officers as may be appointed in accordance with the provisions of Section 3.2) shall be elected by the Board of Directors at each annual meeting. Each such officer (whether elected at an annual meeting of the Board of Directors or to fill a vacancy or otherwise) shall hold office until the officer's successor is chosen and qualified, or until death, or until the officer shall resign in the manner provided in Section 3.3 or be removed in the manner provided in Section 3.4. The Chairman of the Board and the Chief Executive Officer shall be members of the Board of Directors. Any other officer may but need not be a director of the Corporation. Election or appointment of an officer or agent shall not of itself create contract rights.

SECTION 3.2. *Other Officers, Election or Appointment.* The Board of Directors from time to time may elect such other officers or agents (including one or more Assistant Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, a Controller, and

one or more Assistant Controllers) as it may deem necessary or advisable. The Board of Directors may delegate to any officer the power to appoint any such officers or agents and to prescribe their respective terms of office, powers and duties.

SECTION 3.3. *Resignation.* Any officer may resign at any time by giving written notice of such resignation to the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the Secretary of the Corporation. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof and unless otherwise specified in it, the acceptance of the resignation shall not be necessary to make it effective.

SECTION 3.4. *Removal.* The officers specifically designated in Section 3.0 may be removed, either for or without cause, at any meeting of the Board of Directors called for the purpose, by the vote of a majority of the actual number of directors elected and qualified. The officers and agents elected or appointed in accordance with the provisions of Section 3.2 may be removed, either for or without cause, at any meeting of the Board of Directors at which a quorum be present, by the vote of a majority of the directors present at such meeting, by any superior officer upon whom such power of removal shall have been conferred by the Board of Directors, or by any officer to whom the power to appoint such officer has been delegated by the Board of Directors pursuant to Section 3.2. Any removal shall be without prejudice to the contract rights, if any, of the person so removed.

SECTION 3.5. *Vacancies.* A vacancy in any office by reason of death, resignation, removal, disqualification or any other cause, may be filled by the Board of Directors or by an officer authorized under Section 3.2 to appoint to such office.

SECTION 3.6. *Chairman of the Board of Directors.* The Chairman of the Board shall preside at all meetings of the shareholders and of the Board of Directors if present and shall have such powers and perform such duties as are assigned to him or her by the Bylaws and by the Board of Directors. At any time in which the Chairman of the Board is unable to discharge the powers and duties of the office, then until such time as the Board shall appoint a new Chairman or determines that the Chairman is able to resume office, temporary authority to perform such duties and exercise such powers shall be granted to the Chief Executive Officer, or if he or she is unable to perform such duties and exercise such powers, to the Board's presiding or lead director (if one shall have been previously selected).

SECTION 3.7. *Chief Executive Officer.* The Chief Executive Officer shall, subject to the control of the Board of Directors, have general supervision over the management and direction of the business of the Corporation. He or she shall see that all orders and resolutions of the Board of Directors are carried into effect. The Chief Executive Officer shall have such other powers and perform such other duties as are assigned to him or her by the Bylaws or the Board of Directors. At any time in which the Chief Executive Officer is unable to discharge the powers and duties of the office, then until such time as the Board shall appoint a new Chief Executive Officer or determines that the Chief Executive Officer is able to resume office, temporary authority to perform such duties and exercise such powers shall be granted in the following manner:

- (a) First, to the President; or if he or she is unable to discharge such powers and duties,
- (b) To the Chief Financial Officer; or if he or she is unable to discharge such powers and duties,
- (c) To the executive officer serving as chief scientific officer; or if he or she is unable to discharge such powers and duties,
- (d) To the executive officer in charge of the Corporation's largest business unit, measured by total revenue on a consolidated basis for the most recently completed fiscal year.

SECTION 3.8. *President.* The President shall have such powers and perform such duties as are assigned to him or her by the Chief Executive Officer, the Bylaws or the Board of Directors.

SECTION 3.9. *Executive Vice Presidents.* Each Executive Vice President shall have such powers and perform such duties as may be assigned to him or her by the Chief Executive Officer, the President, or the Board of Directors.

SECTION 3.10. *Senior Vice Presidents and Group Vice Presidents.* Each Senior Vice President and each Group Vice President shall perform such duties and have such powers as may be assigned to him or her by the Chief Executive Officer, the President, or the Board of Directors.

SECTION 3.11. *Vice Presidents.* Each Vice President shall perform such duties and have such powers as may be assigned to him or her by the Chief Executive Officer, the President or the Board of Directors.

SECTION 3.12. *Secretary.* The Secretary shall:

- (a) record all the proceedings of the meetings of the shareholders and Board of Directors in books to be kept for such purposes;
- (b) cause all notices to be duly given in accordance with the provisions of these Bylaws and as required by statute;
- (c) be custodian of the Seal of the Corporation, and cause such Seal to be affixed to all certificates representing shares of the Corporation prior to the issuance thereof (subject, however, to the provisions of Section 5.0) and to all instruments the execution of which on behalf of the Corporation under its Seal shall have been duly authorized in accordance with these Bylaws;
- (d) subject to the provisions of Section 5.0, sign certificates representing shares of the Corporation the issuance of which shall have been authorized by the Board of Directors; and

(e) in general, perform all duties incident to the office of Secretary and such other duties as are given to the Secretary by these Bylaws or as may be assigned to him or her by the Chairman of the Board, the Chief Executive Officer, the President or the Board of Directors.

SECTION 3.13. *Assistant Secretaries.* Each Assistant Secretary shall assist the Secretary in his or her duties, and shall perform such other duties as the Board of Directors may from time to time prescribe or the Chief Executive Officer, the President or the Secretary may from time to time delegate. At the request of the Secretary, any Assistant Secretary may temporarily act in the Secretary's place in the performing of part or all of the duties of the Secretary. In the case of the death of the Secretary, or in the case of the Secretary's absence or inability to act without having designated an Assistant Secretary to act temporarily in his or her place, the Assistant Secretary who is to perform the duties of the Secretary shall be designated by the Chief Executive Officer or the Board of Directors.

SECTION 3.14. *Chief Financial Officer.* The Chief Financial Officer shall:

- (a) have supervision over and be responsible for the funds, securities, receipts, and disbursements of the Corporation;
- (b) cause to be kept at the principal business office of the Corporation and preserved for review as required by law or regulation records of financial transactions and correct books of account using appropriate accounting principles;
- (c) be responsible for the establishment of adequate internal control over the transactions and books of account of the Corporation;
- (d) be responsible for rendering to the proper officers and the Board of Directors upon request, and to the shareholders and other parties as required by law or regulation, financial statements of the Corporation; and
- (e) in general, perform all duties incident to the office and such other duties as are given by the Bylaws or as may be assigned by the Chief Executive Officer, the President or the Board of Directors.

SECTION 3.15. *Treasurer.* The Treasurer shall:

- (a) have charge of the funds, securities, receipts and disbursements of the Corporation;
- (b) cause the moneys and other valuable effects of the Corporation to be deposited or invested in the name and to the credit of the Corporation in such banks or trust companies or with such bankers or other depositories or investments as shall be selected in accordance with resolutions adopted by the Board of Directors;
- (c) cause the funds of the Corporation to be disbursed from the authorized depositories of the Corporation, and cause to be taken and preserved proper records of all moneys disbursed; and

(d) in general, perform all duties incident to the office of Treasurer and such other duties as are given to the Treasurer by the Bylaws or as may be assigned to him or her by the Chief Executive Officer, the President, the Chief Financial Officer, or the Board of Directors.

SECTION 3.16. *Assistant Treasurers.* Each Assistant Treasurer shall assist the Treasurer in his or her duties, and shall perform such other duties as the Board of Directors may from time to time prescribe or the President or the Chief Financial Officer may from time to time delegate. At the request of the Treasurer, any Assistant Treasurer may temporarily act in the Treasurer's place in performing part or all of the duties of the Treasurer. In the case of the death of the Treasurer, or in the case of the Treasurer's absence or inability to act without having designated an Assistant Treasurer to act in his or her place, the Assistant Treasurer who is to perform the duties of the Treasurer shall be designated by the Chief Executive Officer, the President, the Chief Financial Officer, or the Board of Directors.

SECTION 3.17. *Chief Accounting Officer.* The Chief Accounting Officer shall:

(a) keep full and accurate accounts of all assets, liabilities, commitments, revenues, costs and expenses, and other financial transactions of the Corporation in books belonging to the Corporation, and conform them to sound accounting principles with adequate internal control;

(b) cause regular audits of these books and records to be made;

(c) see that all expenditures are made in accordance with procedures duly established, from time to time, by the Corporation;

(d) render financial statements upon the request of the Board of Directors, and a full financial report prior to the annual meeting of shareholders, as well as such other financial statements as are required by law or regulation; and

(e) in general, perform all the duties ordinarily connected with the office of Chief Accounting Officer and such other duties as may be assigned to him or her by the Chief Executive Officer, the President, the Chief Financial Officer, or the Board of Directors.

SECTION 3.18. *General Counsel.* The Board of Directors may appoint a general counsel who shall have general control of all matters of legal import concerning the Corporation.

SECTION 3.19. *Other Officers or Agents.* Any other officers or agents elected or appointed pursuant to Section 3.2 shall have such duties and responsibilities as may be fixed from time to time by the Bylaws or as may be assigned to them by the Chief Executive Officer, the President or the Board of Directors.

SECTION 3.20. *Chairman Emeritus.* In recognition of distinguished service to the Corporation, the Board of Directors may designate a person who has served as Chairman of the Board and who is no longer an employee, officer, or director as Chairman Emeritus. The Chairman Emeritus may serve to represent the Corporation at the request of the Chairman of the Board.

SECTION 3.21. *Compensation.* The compensation of executive officers of the Corporation shall be fixed from time to time by the Compensation Committee (or successor committee) established pursuant to Section 2.10. Unless the Board of Directors by resolution shall direct otherwise, the compensation of employees who are not executive officers of the Corporation shall be fixed by the management of the Company. No employee shall be prevented from receiving compensation by reason of being a director of the Corporation.

SECTION 3.22. *Surety Bonds.* In case the Board of Directors shall so require, any officer or agent of the Corporation shall execute to the Corporation a bond in such sum and with such surety or sureties as the Board of Directors may direct, conditioned upon the faithful performance of his or her duties to the Corporation, including responsibility for negligence and for the accounting of all property, funds or securities of the Corporation which the officer or agent may handle.

ARTICLE IV

Execution of Instruments and Deposit of Corporate Funds

SECTION 4.0. *Execution of Instruments Generally.* All deeds, contracts, and other instruments requiring execution by the Corporation may be signed by the Chairman of the Board, the Chief Executive Officer, the President or any Vice President. Authority to sign any deed, contract, or other instrument requiring execution by the Corporation may be conferred by the Board of Directors upon any person or persons whether or not such person or persons be officers of the Corporation. Such person or persons may delegate, from time to time, by instrument in writing, all or any part of such authority to any other person or persons if authorized so to do by the Board of Directors.

SECTION 4.1. *Notes, Checks, Other Instruments.* All notes, drafts, acceptances, checks, endorsements, and all evidences of indebtedness of the Corporation whatsoever, shall be signed by such officer or officers or such agent or agents of the Corporation and in such manner as the Board of Directors from time to time may determine. Endorsements for deposit to the credit of the Corporation in any of its duly authorized depositories shall be made in such manner as the Board of Directors from time to time may determine.

SECTION 4.2. *Proxies.* Proxies, powers of attorney, or consents to vote with respect to shares or units of other corporations or other entities owned by or standing in the name of the Corporation may be executed and delivered from time to time on behalf of the Corporation by the Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or by any other person or persons thereunto authorized by the Board of Directors. Persons with authority to execute proxies, powers of attorney, or consents under this Section 4.2 may delegate that authority unless prohibited by the Board of Directors.

ARTICLE V

Shares

SECTION 5.0. *Certificates for Shares.* Shares in the corporation may be issued in book-entry form or evidenced by certificates. However, every holder of shares in the Corporation shall be entitled upon request to have a certificate evidencing the shares owned by the shareholder, signed in the name of the Corporation by the Chairman of the Board, the Chief Executive Officer, President or a Vice President and the Secretary or an Assistant Secretary, certifying the number of shares owned by the shareholder in the Corporation. The signatures of such officers, the signature of the transfer agent and registrar, and the Seal of the Corporation may be facsimiles. In case any officer or employee who shall have signed, or whose facsimile signature or signatures shall have been used on, any certificate shall cease to be an officer or employee of the Corporation before the certificate shall have been issued and delivered by the Corporation, the certificate may nevertheless be adopted by the Corporation and be issued and delivered as though the person or persons who signed the certificate or whose facsimile signature or signatures shall have been used thereon had not ceased to be such officer or employee of the Corporation; and the issuance and delivery by the Corporation of any such certificate shall constitute an adoption thereof. Every certificate shall state on its face (or in the case of book-entry shares, the statements evidencing ownership of such shares shall state) the name of the Corporation and that it is organized under the laws of the State of Indiana, the name of the person to whom it is issued, and the number and class of shares and the designation of the series, if any, the certificate represents, and shall state conspicuously on its front or back that the Corporation will furnish the shareholder, upon written request and without charge, a summary of the designations, relative rights, preferences and limitations applicable to each class and the variations in rights, preferences and limitations determined for each series (and the authority of the Board of Directors to determine variations for future series). Every certificate (or book-entry statement) shall state whether such shares have been fully paid and are non-assessable. If any such shares are not fully paid, the certificate (or book-entry statement) shall be legibly stamped to indicate the percentum which has been paid up, and as further payments are made thereon, the certificate shall be stamped (or book-entry statement updated) accordingly. Subject to the foregoing provisions, certificates representing shares in the Corporation shall be in such form as shall be approved by the Board of Directors. There shall be entered upon the stock books of the Corporation at the time of the issuance or transfer of each share the number of the certificates representing such share (if any), the name of the person owning the shares represented thereby, the class of such share and the date of the issuance or transfer thereof.

SECTION 5.1. *Transfer of Shares.* Transfer of shares of the Corporation shall be made on the books of the Corporation by the holder of record thereof, or by the shareholder's attorney thereunto duly authorized in writing and filed with the Secretary of the Corporation or any of its transfer agents, and on surrender of the certificate or certificates (if any) representing such shares. The Corporation and its transfer agents and registrars, shall be entitled to treat the holder of record of any share or shares the absolute owner thereof for all purposes, and accordingly shall not be bound to recognize any legal, equitable or other claim to or interest in such share or shares on the part of any other person whether or not it or they shall have express or other notice thereof, except as otherwise expressly provided by the statutes of the State of Indiana. Shareholders shall notify the Corporation in writing of any changes in their addresses from time to time.

SECTION 5.2. *Regulations.* Subject to the provisions of this Article V, the Board of Directors may make such rules and regulations as it may deem expedient concerning the

issuance, transfer and regulation of certificates for shares or book-entry shares of the Corporation.

SECTION 5.3. *Transfer Agents and Registrars.* The Board of Directors may appoint one or more transfer agents, one or more registrars, and one or more agents to act in the dual capacity of transfer agent and registrar with respect to the certificates representing shares and the book-entry shares of the Corporation.

SECTION 5.4. *Lost or Destroyed Certificates.* The holders of any shares of the Corporation shall immediately notify the Corporation or one of its transfer agents and registrars of any loss or destruction of the certificate representing the same. The Corporation may issue a new certificate in the place of any certificate theretofore issued by it alleged to have been lost or destroyed upon such terms and under such regulations as may be adopted by the Board of Directors or the Secretary, and the Board of Directors or Secretary may require the owner of the lost or destroyed certificate or the owner's legal representatives to give the Corporation a bond in such form and for such amount as the Board of Directors or Secretary may direct, and with such surety or sureties as may be satisfactory to the Board of Directors or the Secretary to indemnify the Corporation and its transfer agents and registrars against any claim that may be made against it or any such transfer agent or registrar on account of the alleged loss or destruction of any such certificate or the issuance of such new certificate. A new certificate may be issued without requiring any bond when, in the judgment of the Board of Directors or the Secretary, it is proper so to do.

SECTION 5.5. *Redemption of Shares Acquired in Control Share Acquisitions.* Any or all control shares acquired in a control share acquisition shall be subject to redemption by the Corporation, if either:

(a) No acquiring person statement has been filed with the Corporation with respect to the control share acquisition; or

(b) The control shares are not accorded full voting rights by the Corporation's shareholders as provided in IND. CODE §23-1-42-9.

A redemption pursuant to Section 5.5(a) may be made at any time during the period ending sixty (60) days after the date of the last acquisition of control shares by the acquiring person. A redemption pursuant to Section 5.5(b) may be made at any time during the period ending two (2) years after the date of the shareholder vote with respect to the voting rights of the control shares in question. Any redemption pursuant to this Section 5.5 shall be made at the fair value of the control shares and pursuant to such procedures for the redemption as may be set forth in these Bylaws or adopted by resolution of the Board of Directors.

As used in this Section 5.5, the terms "control shares," "control share acquisition," "acquiring person statement" and "acquiring person" shall have the meanings ascribed to them in IND. CODE §23-1-42.

ARTICLE VI

Indemnification

SECTION 6.0. *Right to Indemnification.*

(a) The Corporation shall, to the fullest extent permitted by applicable law now or hereafter in effect, indemnify any person who is or was a director, officer or employee of the Corporation (“Eligible Person”) and who is or was involved in any manner (including, without limitation, as a party or a witness) or is threatened to be made so involved in any threatened, pending or completed investigation, claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including, without limitation, any action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor) (a “Proceeding”) by reason of the fact that such Eligible Person is or was a director, officer or employee of the Corporation or is or was serving at the request of the Corporation as a director, officer, partner, member, manager, trustee, employee, fiduciary or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise (including, without limitation, any employee benefit plan) (a “Covered Entity”), against all expenses (including attorneys’ fees), judgments, fines or penalties against (including excise taxes assessed with respect to an employee benefit plan) and amounts paid in settlement actually and reasonably incurred by such Eligible Person in connection with such Proceeding.

(b) Notwithstanding Section 6.0(a), the Corporation shall not be obligated to indemnify an Eligible Person with respect to a Proceeding (or part thereof) commenced by such Eligible Person, except with respect to (i) a judicial adjudication or arbitration commenced by the Eligible Person under Section 6.4(e) or (f), as to which the rights to indemnification are provided pursuant Section 6.4(h), or (ii) a Proceeding (or part thereof) that was authorized or consented to by the Board of Directors of the Corporation.

(c) In the event a Proceeding arises out of an Eligible Person’s service to a Covered Entity, the indemnification provided by the Corporation under this Article shall be secondary to and not *pari passu* with any indemnification provided by the Covered Entity. However, the Corporation may provide indemnification to the Eligible Person in the first instance, in which case the Corporation shall be subrogated to the extent of such payment to the rights of the Eligible Person with respect to the indemnification provided by the Covered Entity and any insurance coverage maintained by the Covered Entity on behalf of the Eligible Person.

(d) Any right of an Eligible Person to indemnification shall be a contract right and shall include the right to receive, prior to the conclusion of any Proceeding, advancement of any expenses incurred by the Eligible Person in connection with such Proceeding in accordance with Section 6.3.

SECTION 6.1. *Insurance, Contracts and Funding.* The Corporation may purchase and maintain insurance to protect itself and any Eligible Person against any expense, judgments, fines and amounts paid in settlement as specified in Section 6.0 or incurred by any Eligible Person in connection with any Proceeding referred to in such section, to the fullest extent permitted by applicable law now or hereafter in effect. The Corporation may enter into

agreements with any director, officer, employee or agent of the Corporation or any director, officer, employee, fiduciary or agent of any Covered Entity supplemental to or in furtherance of the provisions of this Article and may create a trust fund or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification and advancement of expenses as provided in this Article.

SECTION 6.2. *Non-Exclusive Rights; Applicability to Certain Proceedings.* The rights provided in this Article shall not be exclusive of any other rights to which any Eligible Person may otherwise be entitled, and the provisions of this Article shall inure to the benefit of the heirs and legal representatives of any Eligible Person and shall be applicable to Proceedings commenced or continuing after the adoption of this Article, whether arising from acts or omissions occurring before or after such adoption.

SECTION 6.3. *Advancement of Expenses.*

(a) Except as provided under Sections 6.3(b) and (c) below, all reasonable expenses incurred by or on behalf of an Eligible Person in connection with any Proceeding shall be advanced to the Eligible Person by the Corporation within sixty (60) days after the receipt by the Corporation of a statement or statements from the Eligible Person complying with this section and Section 6.4 requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding, unless a determination has been made pursuant to Section 6.4 that such Eligible Person is not entitled to indemnification. Any such statement or statements shall reasonably evidence the expenses incurred by the Eligible Person and shall include (i) a written representation that, in connection with the matters giving rise to the Proceeding, the Eligible Person was acting in good faith and in what he or she believed to be the best interests of the Corporation or at least not opposed to the best interests of the Corporation, and (ii) a written affirmation or undertaking to repay advances if it is ultimately determined that the Eligible Person is not entitled to indemnification under this Article.

(b) Notwithstanding Section 6.3(a), advancement of expenses shall not be mandatory, but shall be permissive at the discretion of the Corporation, for expenses incurred after the Eligible Person's conviction by a trial court of competent jurisdiction of, or plea of guilty or *nolo contendere* or its equivalent to, a crime arising from the circumstances giving rise to the Proceeding.

(c) Notwithstanding Section 6.3(a), advancement of expenses shall not be mandatory, but shall be permissive at the discretion of the Corporation, for expenses incurred by or on behalf of Eligible Persons for judicial adjudications or arbitrations under Section 6.4(e) or (f), except that advancement of such expenses shall be mandatory for judicial adjudications or arbitrations brought after a Change in Control in connection with expenses relating to underlying Proceedings arising from actions or failures to act prior to the Change in Control, provided the Eligible Person complies with the requirements of Section 6.3(a).

SECTION 6.4. *Procedures; Presumptions and Effect of Certain Proceedings; Remedies.* In furtherance, but not in limitation, of the foregoing provisions, the following procedures, presumptions and remedies shall apply with respect to and the right to indemnification and advancement of expenses under this Article.

(a) To obtain indemnification under this Article, an Eligible Person shall submit to the Secretary of the Corporation a written request, including such documentation and information as is reasonably available to the Eligible Person and reasonably necessary to determine whether and to what extent the Eligible Person is entitled to indemnification (the “Supporting Documentation”). The determination of the Eligible Person’s entitlement to indemnification shall be made not later than sixty (60) days after receipt by the Corporation of the written request together with the Supporting Documentation. The Secretary of the Corporation shall, promptly upon receipt of such request, advise the Board in writing of the Eligible Person’s request.

(b) An Eligible Person’s entitlement to indemnification under this Article shall be determined in one of the following methods, such method to be selected by the Board of Directors, regardless of whether there are any Disinterested Directors (as hereinafter defined): (i) by a majority vote of the Disinterested Directors, if they constitute a quorum of the Board; (ii) by a written opinion of Special Counsel (as hereinafter defined) if (A) a Change in Control shall have occurred and the Eligible Person so requests or (B) a quorum of the Board consisting of Disinterested Directors is not obtainable or, even if obtainable, a majority of such Disinterested Directors so directs; (iii) by the shareholders of the Corporation (but only if a majority of the Disinterested Directors, if they constitute a quorum of the Board, presents the issue of entitlement to the shareholders for their determination); or (iv) as provided in subsection (d).

(c) In the event the determination of entitlement is to be made by Special Counsel, a majority of the Disinterested Directors shall select the Special Counsel, but only Special Counsel to which the Eligible Person does not reasonably object; provided, however, that if a Change in Control shall have occurred, the Eligible Person shall select such Special Counsel, but only Special Counsel to which a majority of the Disinterested Directors does not reasonably object.

(d) Except as otherwise expressly provided in this Article, if a Change in Control shall have occurred, the Eligible Person shall be presumed to be entitled to indemnification (with respect to actions or failures to act occurring prior to such Change in Control) upon submission of a request for indemnification together with the Supporting Documentation in accordance with subsection (a), and thereafter the Corporation shall have the burden of proof to overcome that presumption in reaching a contrary determination. In any event, if the person or persons empowered under subsection (c) to determine entitlement shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the Corporation of the request therefor together with the Supporting Documentation, the Eligible Person shall be deemed to be, and shall be, entitled to indemnification and advancement of expenses unless (i) the Eligible Person misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting Documentation or (ii) such indemnification is prohibited by law. The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, adversely affect the right of an Eligible Person to indemnification or create a presumption that the Eligible Person did not act in good faith and in a manner which the Eligible Person reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal proceeding, that the Eligible Person had reasonable cause to believe that his or her conduct was unlawful.

(e) In the event that a determination is made that the Eligible Person is not entitled to indemnification (i) the Eligible Person shall be entitled to seek an adjudication of his or her entitlement to such indemnification either, at the Eligible Person's sole option, in (A) an appropriate court of the state of Indiana or any other court of competent jurisdiction or (B) an arbitration to be conducted in Indianapolis, Indiana, by a single arbitrator pursuant to the rules of the American Arbitration Association; (ii) in any such judicial proceeding or arbitration the Eligible Person shall not be prejudiced by reason of the prior determination pursuant to this Section 6.4; and (iii) if a Change in Control shall have occurred, in any such judicial proceeding or arbitration the Corporation shall have the burden of proving that the Eligible Person is not entitled to indemnification but only with respect to actions or failures to act occurring prior to such Change in Control.

(f) If a determination shall have been made or deemed to have been made that the Eligible Person is entitled to indemnification, the Corporation shall be obligated to pay the amounts incurred by the Eligible Person within ten (10) days after such determination has been made or deemed to have been made and shall be conclusively bound by such determination unless (i) the Eligible Person misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting Documentation or (ii) such indemnification is prohibited by law. In the event that (A) any advancement of expenses is not timely made pursuant to Section 6.3 or (B) payment of indemnification is not made within ten (10) days after a determination of entitlement to indemnification has been made, the Eligible Person shall be entitled to seek judicial enforcement of the Corporation's obligation, to pay to the Eligible Person such advancement of expenses or indemnification. Notwithstanding the foregoing, the Corporation may bring an action, in an appropriate court in the State of Indiana or any other court of competent jurisdiction, contesting the right of the Eligible Person to receive indemnification hereunder due to the occurrence of an event described in clause (i) or (ii) of this subsection (f) (a "Disqualifying Event"); provided, however, that in any such action the Corporation shall have the burden of proving the occurrence of such Disqualifying Event.

(g) The Corporation shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 6.4 that the procedures and presumptions of this Article are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Corporation is bound by the provisions of this Article.

(h) In the event that the Eligible Person seeks a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of this Article, the Eligible Person shall be entitled to recover from the Corporation, and shall be indemnified by the Corporation, against, any expenses actually and reasonably incurred by the Eligible Person in connection with such adjudication or arbitration if the Eligible Person prevails in such adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that the Eligible Person is entitled to receive part but not all of the indemnification or advancement of expenses sought, the expenses incurred by the Eligible Person in connection with such judicial adjudication or arbitration shall be prorated accordingly.

SECTION 6.5. *Certain Definitions.* For purposes of this Article:

(a) “Change in Control” means any of the following events: (i) the acquisition by any “person,” as that term is used in Sections 13(d) and 14(d) of the Exchange Act, other than (A) the Corporation, (B) any subsidiary of the Corporation, (C) any employee benefit plan or employee stock plan of the Corporation or a subsidiary of the Corporation or any trustee or fiduciary with respect to any such plan when acting in that capacity, or (D) Lilly Endowment, Inc., of “beneficial ownership” as defined in Rule 13d-3 under the Exchange Act, directly or indirectly, of 20 percent or more of the shares of the Corporation’s capital stock the holders of which have general voting power under ordinary circumstances to elect at least a majority of the Board (or which would have such voting power but for the application of IND. CODE §§ 23-1-42-1 through 23-1-42-11) (“Voting Stock”); (ii) the first day on which less than one half of the total membership of the Board shall be Continuing Directors (as such term is defined in Article 13.(f) of the Articles of Incorporation); (iii) consummation of a merger, share exchange, or consolidation of the Corporation (a “Transaction”), other than a Transaction which would result in the Voting Stock of the Corporation outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50 percent of the Voting Stock of the Corporation or such surviving entity immediately after such Transaction; or (iv) approval by the shareholders of the Corporation of a complete liquidation of the Corporation or a sale of disposition of all or substantially all the assets of the Corporation.

(b) “Disinterested Director” means a Director who is not or was not a party to the Proceeding in respect of which indemnification is sought by the Eligible Person.

(c) “Special Counsel” means a law firm or a member of a law firm that neither presently is, nor in the past five years has been, retained to represent any other party to the Proceeding giving rise to a claim for indemnification under this Article. In addition, any person who, under applicable standards of professional conduct, would have a conflict of interest in representing either the Corporation or the Eligible Person in an action to determine the Eligible Person’s rights under this Article may not act as Special Counsel.

SECTION 6.6. *Indemnification of Agents.* Notwithstanding any other provisions of this Article, the Corporation may, consistent with the provisions of applicable law, indemnify any person other than a director, officer or employee of the Corporation who is or was an agent of the Corporation and who is or was involved in any manner (including, without limitation, as party or a witness) or is threatened to be made so involved in any threatened, pending or completed Proceeding by reasons of the fact that such person is or was an agent of the Corporation or, at the request of the Corporation, a director, officer, partner, member, manager, employee, fiduciary or agent of a Covered Entity against all expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding. The Corporation may also advance expenses incurred by such person in connection with any such Proceeding, consistent with the provisions of applicable law.

SECTION 6.7. *Effect of Amendment or Repeal.* Neither the amendment or repeal of, nor the adoption of a provision inconsistent with, any provision of this Article shall adversely affect the rights of any Eligible Person under this Article (a) with respect to any Proceeding

commenced or threatened prior to such amendment, repeal or adoption of an inconsistent provision or (b) after the occurrence of a Change in Control, with respect to any Proceeding arising out of any action or omission occurring prior to such amendment, repeal or adoption of an inconsistent provision, in either case without the written consent of such Eligible Person.

SECTION 6.8. *Severability.* If any of this Article shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Article (including, without limitation, all portions of any Section of this Article containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article (including, without limitation, all portions of any Section of this Article containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE VII Miscellaneous

SECTION 7.0. *Corporate Seal.* The Seal of the Corporation shall consist of a circular disk around the circumference of which shall appear the words:

“ELI LILLY AND COMPANY, INDIANAPOLIS, INDIANA”

and across the center thereof the words:

“Established 1876 Incorporated 1901”.

SECTION 7.1. *Fiscal Year.* The fiscal year of the Corporation shall begin on the first day of January in each year and shall end on the thirty-first day of the following December.

SECTION 7.2. *Amendment of Bylaws.* These Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of at least a majority of the actual number of directors elected and qualified at any regular or special meeting of the Board of Directors, provided that: (a) the notice or waiver of notice of such meeting states in effect that consideration is to be given at such meeting to the amendment or repeal of the Bylaws or the adoption of new Bylaws; (b) no provision of these Bylaws incorporating a provision of Articles 9, 13 or 14 of the Articles of Incorporation may be amended except in a manner consistent with those Articles as they may be amended in compliance with the requirements stated therein; and (c) any amendment to Articles I and VI of these Bylaws shall require the affirmative vote of a majority of (i) the actual number of directors elected and qualified, and (ii) the Continuing Directors, as defined in Article 13.(f) of the Articles of Incorporation.

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