UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14C INFORMATION

Information Statement Pursuant to Section 14(c) of the Securities Exchange Act of 1934

Check the appropriate box:

☒ Preliminary Information Statement

☐ Confidential, for use of the Commission only (as permitted by Rule 14c-5(d)(2))

☐ Definitive Information Statement

VIANT TECHNOLOGY INC.
(Name of Registrant As Specified In Charter)

Payment of Filing Fee (Check all boxes that apply):

☒ No fee required

☐ Fee paid previously with preliminary materials

☐ Fee computed on table in exhibit required by Item 25(b) of Schedule 14A (17 CFR 240.14a-101) per Item 1 of this Schedule and Exchange Act Rules 14c-5(g) and 0-11

INFORMATION STATEMENT

WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY

NOTICE OF STOCKHOLDER ACTION BY WRITTEN CONSENT

Dear Stockholders of Viant Technology Inc.:

We are delivering this Notice and the accompanying Information Statement to the stockholders of record, as of the close of business on November 19, 2026 (the "Record Date"), of Class A common stock, par value $0.001 per share (the "Class A Common Stock"), and Class B common stock, par value $0.001 per share (the "Class B Common Stock" and, together with the Class A Common Stock, the "capital stock"), of Viant Technology Inc. ("Viant," the "Company," "we" or "our").

The purpose of the Information Statement is to inform our stockholders that on November 19, 2026, stockholders of the Company holding (a) a majority of the voting power of our outstanding shares of capital stock entitled to vote and (b) a majority of the outstanding shares of Class B Common Stock, in each case as of the Record Date, acted by written consent in lieu of a meeting of stockholders to approve the reincorporation of the Company from the State of Delaware to the State of Texas by conversion (such reincorporation, the "Reincorporation," and such written consent, the "Written Consent").

The "Consenting Stockholders" are, collectively, Tim Vanderhook, Chris Vanderhook and Capital V LLC (formerly Four Brothers 2 LLC) (collectively, the "Vanderhook Parties"). As of the close of business on November 19, 2026, the record date for the Written Consent, the Consenting Stockholders together held 420,692 shares of the Company's Class A Common Stock and 42,460,106 shares of the Company's Class B Common Stock, representing approximately 66.0% of the voting power of our outstanding shares of capital stock entitled to vote and 94.7% of the outstanding shares of Class B Common Stock.

The purpose of this Notice and the accompanying Information Statement is to (1) inform our stockholders of the action described above before it takes effect in accordance with Rule 14c-2 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and (2) provide the notice to our stockholders of a corporate action taken by our stockholders without a meeting as required under Section 228(e) of the General Corporation Law of the State of Delaware. In accordance with Rule 14c-2 under the Exchange Act, we plan to effectuate the Reincorporation no earlier than 20 calendar days after the commencement of mailing of the Information Statement to our stockholders. The Information Statement is first being mailed to stockholders on or about [ ], 2026.

The Reincorporation was unanimously approved and recommended by our Board of Directors, following a recommendation by a special committee of the Board of Directors, prior to the effectiveness of the Written Consent described in the Information Statement.

WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY.

By Order of the Board of Directors,

Tim Vanderhook
Chief Executive Officer and Chairman
Viant Technology Inc.
[ ], 2026

Viant Technology Inc.

2722 Michelson Drive, Suite 100

Irvine, California 92612

INFORMATION STATEMENT

General

In this Information Statement, unless the context otherwise requires, "Viant Technology Inc.," "Viant," the "Company," the "Delaware Corporation," "we," "us" and "our" and similar expressions refer to Viant Technology Inc., a Delaware corporation. This Information Statement is being sent to inform our stockholders that stockholders holding both (a) a majority of the voting power of the Company's outstanding Class A common stock, par value $0.001 per share (the "Class A Common Stock"), and Class B common stock, par value $0.001 per share (the "Class B Common Stock" and, together with the Class A Common Stock, the "capital stock"), voting together as a single class, and (b) a majority of the outstanding shares of Class B Common Stock, voting as a separate class, took action by written consent to approve the reincorporation of the Company from the State of Delaware to the State of Texas (the "Reincorporation") by conversion, pursuant to which the Company would be converted from a corporation organized under the laws of the State of Delaware to a corporation organized under the laws of the State of Texas (the "Texas Corporation"). On November 18, 2026, our Board of Directors, upon the recommendation of a special committee thereof, unanimously adopted resolutions (the "Reincorporation Resolutions") (i) approving the Reincorporation and the plan of conversion (the "Plan of Conversion") and (ii) recommending the Reincorporation, the Plan of Conversion and the Reincorporation Resolutions be approved and adopted by the Company's stockholders. On November 19, 2026, the Consenting Stockholders (as defined below), who collectively owned (a) a majority of the voting power of the outstanding shares of the Company's capital stock entitled to vote thereon as of the close of business on November 19, 2026 (the "Record Date") and (b) a majority of the outstanding shares of Class B Common Stock on the Record Date, delivered to the Company a written consent (the "Written Consent") approving and adopting the Reincorporation, the Plan of Conversion and the Reincorporation Resolutions.

This Information Statement is being sent on [ ], 2026 to the Company's stockholders of record as of the Record Date that did not execute the Written Consent. This Information Statement constitutes notice to our stockholders of a corporate action taken by our stockholders without a meeting as required by Section 228(e) of the General Corporation Law of the State of Delaware (the "DGCL").

We will pay the costs of preparing and sending out the enclosed Notice and this Information Statement. We will require brokerage houses, nominees, custodians, fiduciaries and other like parties to forward this Information Statement to the beneficial owners of our Class A Common Stock and Class B Common Stock and we will reimburse such persons for out-of-pocket expenses incurred in forwarding such materials.

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The Action by Written Consent

Section 228 of the DGCL provides that, unless otherwise provided in the certificate of incorporation, any action required to be taken, or which may be taken, at any annual or special meeting of stockholders of a corporation,

may be taken without a meeting, without prior notice and without a vote, if a consent or consents, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation in the manner required by Section 228 of the DGCL.

Article VI of the Amended and Restated Certificate of Incorporation of the Company (the "Delaware Charter") provides that prior to any time that Tim Vanderhook, Chris Vanderhook and Four Brothers 2 LLC (now known as Capital V LLC) collectively cease to beneficially own a majority of the combined voting power of the capital stock, except as otherwise provided for or fixed pursuant to the provisions of Article IV of the Delaware Charter (including any preferred stock designation), any action required or permitted to be taken at any annual or special meeting of the stockholders of the Company may be taken without a meeting, without prior notice and without a vote by consent in accordance with Section 228 of the DGCL. Accordingly, our stockholders may currently act by written consent as described in the Delaware Charter.

On November 19, 2026, Tim Vanderhook, Chris Vanderhook and Capital V LLC (formerly Four Brothers 2 LLC) (collectively, the "Vanderhook Parties" or the "Consenting Stockholders") delivered to the Company the Written Consent in accordance with Section 228 of the DGCL, pursuant to which such Consenting Stockholders approved and adopted the Reincorporation, the Plan of Conversion and the Reincorporation Resolutions. All of the shares of capital stock of the Company held by the Consenting Stockholders are beneficially owned by Tim Vanderhook and Chris Vanderhook or by entities controlled by them. Tim Vanderhook is the Company's Chairman of our Board of Directors and Chief Executive Officer. Chris Vanderhook is the Company's Chief Operating Officer and a member of our Board of Directors.

Voting and Vote Required

The Company is not seeking consents, authorizations or proxies from you.

Pursuant to Section 266 of the DGCL, the Reincorporation must be approved by the affirmative vote of (a) a majority of the voting power of the outstanding shares of the capital stock of the Company entitled to vote thereon and (b) a majority of the outstanding shares of Class B Common Stock, voting as a separate class.

As of the Record Date, there were 19,643,810 shares of Class A Common Stock outstanding and entitled to vote, and 45,289,716 shares of Class B Common Stock outstanding and entitled to vote. As of the Record Date, the Consenting Stockholders held 420,692 shares of Class A Common Stock and 42,460,106 shares of Class B Common Stock, representing approximately 66.0% of the voting power of the outstanding shares of capital stock of the Company, on a combined basis, and approximately 94.7% of the outstanding shares of Class B Common Stock.

Accordingly, delivery of the Written Consent by the Consenting Stockholders representing (a) a majority of the voting power of the outstanding shares of capital stock of the Company, on a combined basis, and (b) a majority of the outstanding shares of Class B Common Stock, voting as a separate class, in each case as of the Record Date, following approval by our Board of Directors, satisfies the requirements of Section 266 of the DGCL.

Notice Pursuant to Section 228(e) of the DGCL

Pursuant to Section 228(e) of the DGCL, the Company is required to provide prompt notice of the taking of a corporate action by less than unanimous written consent of stockholders to those stockholders as of the record date for the action by consent who have not consented and who would have been entitled to notice of the meeting if the action had been taken at a meeting and the record date for the notice of the meeting were the record date for the action by consent. This Information Statement serves as the notice required by Section 228(e) of the DGCL.

Principal Terms of the Reincorporation

Our Board of Directors has unanimously approved, and recommended that our stockholders approve and adopt, (i) the Reincorporation, pursuant to which the Company would be converted from a corporation organized under

the laws of the State of Delaware to the Texas Corporation, (ii) the Plan of Conversion included as Appendix B to this Information Statement, and (iii) the Reincorporation Resolutions included as Appendix A to this Information Statement.

The Reincorporation will be effected through a conversion pursuant to Section 266 of the DGCL, and Title 1, Chapter 10, Subchapter C of the Texas Business Organizations Code (the "TBOC"), as set forth in the Plan of Conversion.

Through the adoption of the Plan of Conversion, upon the effective time of the Reincorporation (the "Effective Time"):

- The Company will continue in existence as a Texas corporation and will continue to operate its business under the current name, "Viant Technology Inc." The corporate existence of Viant Technology Inc. will not cease at any time.
- The internal affairs of the Company will cease to be governed by Delaware law and will instead be subject to Texas law. See "What Changes After the Reincorporation?—Certain Differences in Stockholder Rights under Delaware and Texas Law" below.
- The Company will cease to be governed by the Delaware Charter, which is included as Appendix C to this Information Statement, and the Amended and Restated Bylaws of the Company (the "Delaware Bylaws"), which are included as Appendix D to this Information Statement, and will instead be subject to the provisions of the Texas certificate of formation (the "Texas Charter") and the Texas bylaws (the "Texas Bylaws"), forms of which are included as Appendix E and Appendix F, respectively, to this Information Statement. See "What Changes After the Reincorporation?—Certain Differences Between the Delaware Charter and Bylaws and the Texas Charter and Bylaws" below.
- The Reincorporation will not result in any change in business, jobs, management, properties, location of any of our offices or facilities, number of employees, obligations, assets, liabilities or net worth (other than as a result of the transaction costs related to the Reincorporation).
- Each outstanding share of our Class A Common Stock will be automatically converted into one outstanding share of Class A common stock of the Texas Corporation pursuant to the Plan of Conversion.
- Each outstanding share of our Class B Common Stock will be automatically converted into one outstanding share of Class B common stock of the Texas Corporation pursuant to the Plan of Conversion.
- Stockholders will not need to exchange their existing stock certificates or book entry entitlements for new stock certificates or book entry entitlements, respectively.
- Each outstanding stock option, restricted stock unit, performance restricted stock unit, restricted stock, equity or equity-based award, or other right to acquire, or any instrument to convert into or exchange for, or that is based on the value of, the Class A Common Stock or Class B Common Stock or other equity securities of the Company, whether vested or unvested, which is outstanding immediately prior to the Reincorporation, will continue in existence and constitute a stock option, restricted stock unit, performance restricted stock unit, restricted stock, equity or equity-based award or other right to acquire, or any instrument to convert into or exchange for, or that is based on the value of, the same amount of Class A common stock or Class B common stock or other equity securities of the Texas Corporation, respectively, and, if applicable, with the same exercise, purchase or conversion price per share, and each equity incentive plan and award agreement of the Company, including the Company's 2021 Long-Term Incentive Plan, will continue as a plan or agreement of the Texas Corporation on the same terms and conditions, subject to the conforming changes described in the Plan of Conversion to account for the Reincorporation.

- The Reincorporation will not affect the common units of Viant Technology LLC ("Viant LLC") (the "LLC Units"), and each LLC Unit, together with a corresponding share of Class B common stock of the Texas Corporation, will continue to be exchangeable for shares of Class A common stock of the Texas Corporation (or, at the election of the Company, cash) on the same terms as in effect immediately prior to the Reincorporation. See "Certain Matters That Will Not Change After Reincorporation—Up-C Structure" below.
- Our Class A Common Stock will continue to be traded on The Nasdaq Global Select Market under the symbol "DSP." We do not expect any interruption in the trading of our Class A Common Stock as a result of the Reincorporation.

In connection with the Reincorporation, the Company intends to make filings with the Secretary of State of Texas and the Secretary of State of Delaware and does not anticipate making any other filings to effect the Reincorporation, other than such filings as may be necessary to qualify the Texas Corporation to transact business in other jurisdictions as contemplated by the Plan of Conversion. Nonetheless, we may face legal challenges to the Reincorporation, including, among others, stockholder challenges under Delaware law, seeking to delay or prevent the Reincorporation.

The Reincorporation may be delayed by the Board of Directors, or the Plan of Conversion may be terminated and abandoned by action of the Board of Directors, at any time prior to the Effective Time, if the Board of Directors determines for any reason that such delay or abandonment would be in the best interests of the Company and all of its stockholders.

Appraisal Rights

Class A Stockholders

HOLDERS OF OUR CLASS A COMMON STOCK ARE NOT ENTITLED TO APPRAISAL RIGHTS WITH RESPECT TO THE REINCORPORATION.

Class B Stockholders

If the Reincorporation is completed, holders of record and beneficial owners of our Class B Common Stock who (1) did not consent to or otherwise vote in favor of the Reincorporation; (2) properly demand appraisal of their shares; (3) continuously hold of record or beneficially own their shares through the Effective Time; (4) otherwise comply with the procedures of Section 262 of the DGCL; and (5) do not withdraw their demands or otherwise lose their rights to appraisal may seek appraisal of their shares in connection with the Reincorporation under Section 262 of the DGCL.

Background of the Reincorporation

We are an advertising technology company. Our cloud-based demand side platform ("DSP") enables the programmatic purchase of advertising, which is the electronification of the digital advertising buying process. Our proprietary data, measurement, AI and other technology-enabled solutions enhance advertising planning, execution and performance. Programmatic advertising is rapidly taking market share from traditional ad sales channels, which require more staffing, offer less transparency and involve higher costs to buyers.

Our company was founded in 1999. Viant Technology Inc. was incorporated in Delaware on October 9, 2020. Delaware has long been the jurisdiction of choice for U.S. corporations due to the extensive experience of the Delaware courts in adjudicating corporate and business-related matters, predictable legal outcomes and speedy resolutions, and deference to the judgment of boards of directors, among other reasons. The competitive landscape among states has changed significantly in recent years, with both Texas and Nevada taking significant actions designed to attract corporations to incorporate in their states.

In light of recent state-level efforts to modernize corporate law, particularly in Texas and Nevada, the Board of Directors initiated a formal review to assess whether relocating the Company's state of incorporation would advance long-term strategy.

The Board of Directors' Evaluation of the Reincorporation

On August 7, 2025, management of the Company, along with external counsel, Latham & Watkins LLP ("Latham"), presented to the Nominating and Corporate Governance Committee of the Board of Directors and the Board of Directors regarding recent developments in the State of Delaware and developments in certain other states, including Texas and Nevada, aimed at enhancing their attractiveness as jurisdictions of incorporation. Management reviewed recent reincorporations from Delaware to Nevada and Texas. Management provided the Board of Directors with presentation materials in advance of the meeting.

At a meeting held on February 26, 2026, management and Latham further discussed reincorporation with the Nominating and Corporate Governance Committee, including the rationale that has driven other companies to reincorporate in Nevada or Texas. The Nominating and Corporate Governance Committee agreed that the Board should form a special committee of independent directors to evaluate and, if such committee determines to proceed, oversee a reincorporation process. Management provided the Board of Directors with presentation materials in advance of the meeting.

At a meeting held on April 24, 2026, the Board of Directors determined that it would be in the best interests of the Company to establish a special committee of the Board of Directors, which was delegated authority to explore, evaluate and make recommendations to the Board of Directors with respect to reincorporating in the state of Texas or the state of Nevada. The Board then established the special committee of the Board, comprised of Max Valdes, Brett Wilson and Vivian Yang (the "Special Committee"). The Board determined that each member of the Special Committee is independent under the rules of The Nasdaq Stock Market LLC and a disinterested director for purposes of Section 144(b) of the DGCL with respect to the potential reincorporation.

The Special Committee held a meeting on July 23, 2026, also attended by the other members of the Board and representatives of management, Latham and a representative from a law firm experienced in Nevada corporate law being considered as local counsel in the event of a reincorporation to Nevada. The representative of the Nevada firm provided a summary of Nevada corporate law based on presentation materials shared in advance of the meeting, including recent legislative developments, and addressed questions relating to certain comparisons to the corporate laws of Delaware and Texas and the potential benefits and risks of reincorporating to Nevada. Following the presentation, the Special Committee members met in an executive session, without Timothy Vanderhook or Chris Vanderhook present, to further discuss the matters discussed earlier in the meeting.

The Special Committee held a meeting on August 25, 2026, also attended by the other members of the Board and representatives of management and Latham, including representatives of Latham's Houston and Austin offices who specialize in Texas corporate law, in attendance. Referencing presentation materials provided in advance of the meeting, the representatives of Latham provided a summary of Texas corporate law, including recent legislative developments, and discussed certain comparisons to the corporate laws of Delaware and Nevada and the potential benefits and risks of reincorporating to Texas. Following the presentation, the Special Committee members met in an executive session, without Timothy Vanderhook or Chris Vanderhook present, to further discuss the matters discussed earlier in the meeting.

The Special Committee met again on October 22, 2026, with the other members of the Board and representatives of management and Latham in attendance. The Special Committee reviewed materials distributed in advance of the meeting, including a comparison of certain features of Delaware, Texas and Nevada corporate law, such as with respect to fiduciary duties and director and officer liability, shareholder rights, the availability of a specialized forum for business disputes, and taxes and fees. The Special Committee agreed that, should the Committee decide to recommend that the Company reincorporate outside of Delaware, it would recommend the

state of Texas as the jurisdiction of incorporation. The Special Committee authorized management to proceed with preparing documentation for reincorporation to Texas.

At a meeting of the Board of Directors on November 18, 2026, the Special Committee delivered its recommendation to the Board of Directors that the Board of Directors approve, and recommend that the stockholders approve and adopt, the Reincorporation, the Plan of Conversion, and the Reincorporation Resolutions, citing the reasons described below under "Reasons for the Reincorporation." The Board of Directors, after discussing and considering the recommendation of the Special Committee, approved the Reincorporation Resolutions.

Interim Meetings of Counsel

In addition to the formal meetings held by the Board of Directors and Special Committee, in-house legal counsel at the Company and/or representatives of Latham, convened separately with counsel from each of Texas, Nevada and Delaware throughout the process, to discuss certain logistical and procedural matters. These discussions facilitated the efficient coordination of the Special Committee's work and ensured that all relevant parties were aligned on the process.

Recommendation of the Board of Directors

The Board of Directors approved the Reincorporation Resolutions. On November 19, 2026, the Consenting Stockholders approved and adopted the Reincorporation, the Plan of Conversion, and the Reincorporation Resolutions by written consent in lieu of a meeting.

Reasons for the Reincorporation

Texas's Statute-Based Approach Provides Predictability and Certainty

After careful consideration, the Board of Directors and Special Committee determined that Texas provides the best legal framework for the Company and its stockholders.

In recent years, Texas has taken a deliberate and sustained approach to modernizing its corporate law. Through a series of amendments to the TBOC, the Texas Legislature has written into statute many governance principles that, in other jurisdictions, are left largely to the courts to develop through case law. Most notably, Texas has codified the business judgment rule. As a result, directors and officers who act in good faith, on an informed basis and within the bounds of the law may make business decisions without undue risk that those decisions will later be second-guessed in litigation. Moreover, in the view of the Board of Directors and the Special Committee, a framework built on statutory standards, rather than evolving judicial doctrine, allows the Company to understand in advance the rules that will apply to its decisions. This, in turn, supports more confident long-term planning and helps the Company respond quickly to developments in a fast-moving and highly competitive industry.

Delaware's Increasingly Litigious Environment

The Board of Directors and the Special Committee also considered the increasingly litigious environment in Delaware, which has engendered costly and less meritorious litigation and has the potential to cause unnecessary distraction to the Company's directors and management team. This risk is particularly acute for companies, such as ours, that have a controlling stockholder group that includes members of management. The Board of Directors and the Special Committee believe that a more predictable legal environment will better allow the Company to pursue its strategy and mission. Meanwhile, Texas limits derivative proceedings by requiring a shareholder to make a pre-suit demand on the corporation, by deferring to the determination of an independent and disinterested board committee regarding whether to pursue an action, and by permitting publicly traded corporations to adopt a

minimum stock-ownership threshold (not to exceed 3% of the corporation's outstanding shares) that a shareholder or group of shareholders must satisfy to institute a derivative proceeding. The Board of Directors and the Special Committee understand that the ability to bring derivative claims is an important protection and mechanism to hold the Board of Directors and management accountable, and believe that the 3% ownership threshold included in the Texas Bylaws, which may be satisfied by any shareholder or group of shareholders that together desire to pursue such a claim, recognizes this protection and reflects an appropriate threshold to better ensure that shareholders who bring derivative claims on behalf of the Company hold an economic stake in the Company sufficient to align them with the interests of other shareholders who ultimately bear the costs of corporate litigation through attorneys' fees, indemnification obligations and directors' and officers' insurance premiums. In addition, the TBOC provides that the resolution of a derivative proceeding that results only in additional or amended disclosures being made to shareholders, regardless of materiality, is not an appropriate basis for awarding plaintiff attorneys' fees.

By reducing the potential for unmeritorious or opportunistic lawsuits against our directors and officers, we believe the Reincorporation may help us more effectively attract and retain the qualified directors and officers required to drive the Company's growth. Ultimately, this enables our Board of Directors and management to remain entirely focused on investing in our business and executing our strategic vision, which will best position Viant for long-term success.

The Board of Directors and the Special Committee also considered the establishment of the Texas Business Court, a specialized trial court created to resolve certain complex business disputes. Modeled in part on Delaware's Court of Chancery, the Texas Business Court is presided over by judges with substantial experience in complex civil litigation and business disputes.

Cost Savings

The Reincorporation will also eliminate our obligation to pay annual Delaware franchise tax. For the most recent franchise tax period, the Company paid $200,000 in annual franchise taxes to the state of Delaware. Texas does not have a comparable annual tax based on outstanding equity. Rather, Texas's franchise tax is based on taxable margin and is imposed on taxable entities formed in Texas or doing business in Texas. The Company already pays the Texas franchise tax (based on the Company's gross receipts apportioned to Texas). This tax is not expected to increase or decrease based on the Company's state of incorporation.

In addition, because of the actions taken by Texas to curb frivolous and opportunistic stockholder litigation and books and records demands, the Company and its stockholders may experience cost savings over time as a result of the Reincorporation.

Certain Risks Associated with the Reincorporation

Although the Board of Directors believes that the Reincorporation is in the best interests of the Company and its stockholders, there can be no assurance that the Reincorporation will result in all or any of the benefits described in this Information Statement, including the benefits of or resulting from incorporation in Texas or the application of Texas law to the internal affairs of the Company.

Certain Differences Between Delaware and Texas Law

Although the Board of Directors believes that the rights of stockholders under the DGCL and the TBOC are relatively similar, the DGCL and Delaware case law collectively are different in certain respects than the TBOC and existing Texas case law in ways that may affect the rights of our stockholders. Certain of these differences provide shareholders of a Texas corporation with rights that are not available to stockholders of a Delaware corporation, while others limit rights that our stockholders currently have. Nevertheless, the Board of Directors

has concluded that the Reincorporation will preserve the fundamental economic and voting rights that stockholders enjoy today, including rights to dividends, distributions, stock repurchases, and appraisal in connection with certain corporate actions, as well as their core governance rights, such as the rights to vote on charter and bylaw amendments, the election of directors, and any other matters presented to our stockholders, which will all be maintained in all material respects following the Reincorporation. Please see the Company's summary of certain differences in the section titled "What Changes After the Reincorporation?—Certain Differences in Stockholder Rights under Delaware and Texas Law."

Among the differences that may limit rights our stockholders currently have, under the TBOC, a shareholder may inspect a Texas corporation's books and records, subject to certain limitations, if such shareholder has been a holder of shares for at least six months or holds at least 5% of the outstanding shares of stock of the Texas corporation. The DGCL, on the other hand, does not require that a stockholder hold a certain number of shares or hold such shares for a stated period of time prior to exercising their books and records inspection rights. Thus, some of our stockholders entitled to make a books and records demand today (as stockholders in a Delaware corporation) will not be able to make a similar demand following the Reincorporation until the requisite holding period is satisfied. At the same time, the Board of Directors believes these provisions may allow the Company to avoid opportunistic or frivolous inspection demands to a greater degree than a Delaware corporation, thereby benefitting the Company and its shareholders to the extent management is not spending time on, and the Company is not incurring costs in connection with, such demands.

In addition, under Delaware law, there is no express statutory authority for fiduciaries to consider factors other than long-term stockholder value maximization, unless the corporation is specifically incorporated as a public benefit corporation. As a Texas corporation, under the TBOC, our directors would not be prohibited from considering the interests of other constituents.

Other differences between Texas and Delaware law provide stockholders with certain additional rights that the Board of Directors considers beneficial to stockholders. For example, under the TBOC, the holders of the percentage of shares specified in the certificate of formation, not to exceed 50% of the shares entitled to vote, have the right to call a special meeting of shareholders. Further, unlike the DGCL, the TBOC expressly provides dissenters' rights in connection with a qualifying sale of all or substantially all of a corporation's assets, and shareholders who amend a bylaw may expressly provide that the Board of Directors may not amend, readopt, or repeal that bylaw.

The Board of Directors considered certain other areas where the law in Texas differs in some respect from the law in Delaware. These were generally procedural to the Company in the view of the Board of Directors. The most potentially important area is related to anti-takeover protections. Both Delaware and Texas permit a range of anti-takeover defenses, including poison pills. Both have business combination provisions, though they apply at different ownership thresholds (20% in Texas and 15% in Delaware) and contain exceptions and mechanics that differ in certain other respects as described in the "Business Combinations Statute" row in the comparison chart under "What Changes After the Reincorporation?—Certain Differences in Stockholder Rights under Delaware and Texas Law." The Company is currently subject to the Delaware provisions, having not elected to opt out in the Delaware Charter, and will become subject to the corresponding Texas provisions following the Reincorporation. Both allow boards of directors to create new directorships and fill vacancies, though Texas law prevents a board of directors from filling more than two vacancies caused by an increase in the size of the board of directors between any two annual meetings of shareholders. Another potential area of practical difference involves change of control transactions and "Revlon duties." Texas law allows directors to take into account "the long-term and short-term interests of the corporation and the shareholders of the corporation, including the possibility that those interests may be best served by the continued independence of the corporation." Similarly, under Delaware law, the decision whether to sell the company or "just say no" is a business judgment for the board of directors in which they can take into account the corporation's long-term interests. But once the board of directors determines to pursue a change of control transaction, Delaware law requires the directors to act reasonably to obtain the best price available.

The Board of Directors also considered the significant amendments to the TBOC that became effective between May and September 2025 (the "TBOC Amendments"), several of which are noted above and affect the rights of our stockholders. Perhaps most significantly, the TBOC Amendments codified the business judgment rule. Under the TBOC Amendments, a breach of duty claim may be brought against a director or officer only if the plaintiff can prove intentional misconduct, fraud, an ultra vires act or a knowing violation of law. In addition, under the TBOC Amendments, emails, texts, social media posting and similar electronic communications are not generally considered books and records of a corporation unless such items effectuate a corporate act. Under the analogous DGCL books and records statute, these materials are only available if either (a) the corporation does not have board/stockholder minutes or written consents, annual financial statements, or (for public companies) independence questionnaires and such materials are necessary and essential to fulfill the inspecting stockholder's proper purpose or (b) the stockholder proves that it has a compelling need for such records, supported by clear and convincing evidence that such records are necessary and essential to its proper purposes. A publicly traded Texas corporation may also deny inspection demands from shareholders with ongoing or expected litigation involving the corporation or derivative proceedings involving the shareholders or their affiliates, and instead the shareholders are entitled to use proper discovery procedures in such litigation processes. The TBOC Amendments also allow certain Texas corporations, including the Texas Corporation, to include in their governing documents a provision establishing a minimum ownership threshold, not higher than 3% of the outstanding stock, that must be held by one or more shareholders in order to bring a derivative claim, and now permit Texas corporations to include in their governing documents an enforceable waiver of the right to a jury trial concerning any internal entity claim. The TBOC defines an "internal entity claim" as a claim of any nature, including a derivative claim in the right of an entity, that is based on, arises from, or relates to the "internal affairs" of the entity, meaning the rights, powers, and duties of its governing authority, governing persons, officers, owners, and members; and matters relating to its membership or ownership interests. The Texas Bylaws provide that, during any time that the Texas Corporation has its common stock listed on a national securities exchange or has 500 or more shareholders, a shareholder or group of shareholders must own at least 3% of the outstanding shares of common stock of the Texas Corporation in order to institute or maintain a derivative proceeding.

It is possible that the Company may face criticism over its decision to reincorporate in Texas from shareholders or advisory services such as Institutional Shareholder Services Inc. ("ISS") and Glass Lewis & Co. ("Glass Lewis").

Extensive Delaware Case Law and Established Court System

There are various important common law doctrines under Delaware law that have not been adopted by Texas courts or adopted in the Texas statutes. The Delaware Court of Chancery and Delaware Supreme Court are experienced business courts which have produced extensive case law interpreting Delaware law, often in the context of extremely expedited litigation. Trials in the Chancery Court are before judges who are experts in corporate law and appointed for 12-year terms. Delaware statutory law is regularly updated by the legislature, which meets at least once every year to consider amendments to the DGCL. While Texas has adopted comprehensive, modern, and flexible statutes, the Texas Legislature meets every other year to update and revise the Texas statutes to meet changing business needs. In addition, Texas case law concerning the effects of its statutes and regulations is more limited than Delaware due in part to Texas' recent shift to a more code-based approach. Additionally, while Texas has established dedicated Business Courts to hear corporate cases, these courts have only been in existence since September 2024, and there has not yet developed extensive case law generated by the Texas Business Court. As a result, the Company would not have the benefit of Delaware's breadth of precedent to anticipate the legality of certain corporate affairs and transactions and shareholders' rights to challenge them, particularly on any matters as to which Texas' statutes do not provide a definitive answer and a Texas court must decide as a matter of first impression. The familiarity with Delaware law and courts and the breadth and long history of Delaware corporate law may impact the views of certain investors or certain members of the financial services industry, as well as potential director and officer candidates, with respect to the Texas Corporation. This view regarding Delaware law may impact the behaviors of such third parties which could have an adverse effect on our business.

The Courts Have Not Applied the TBOC Amendments

The TBOC Amendments became effective between May and September of 2025, and there is not a significant body of case law interpreting, clarifying, validating or supporting the TBOC Amendments. There is ongoing litigation challenging certain of the TBOC Amendments. One such case involves a challenge to a board's ability to adopt a minimum ownership threshold for derivative claims with such threshold to be effective against a shareholder who made a demand on, but did not institute a proceeding against, the corporation prior to the adoption of the bylaw. This case was dismissed by the Northern District of Texas and is currently on appeal at the United States Court of Appeals for the Fifth Circuit. Other cases could challenge the validity of the TBOC Amendments, apply them in ways that are inconsistent with how we understand the language of the TBOC Amendments, or qualify them in unforeseen ways, any of which could have an adverse effect on our business.

Transaction Costs and Litigation Risk

We have incurred and will incur certain costs in connection with the Reincorporation, including certain filing fees and legal and other transaction costs. We believe a majority of the costs related to the Reincorporation have already been incurred or will be incurred in connection with the delivery of this Information Statement to stockholders regardless of whether the Reincorporation is ultimately completed. Many of the expenses that will be incurred and other potential transaction costs are difficult to accurately estimate at the present time, and additional unanticipated costs may be incurred in connection with the Reincorporation.

It is also possible that the Reincorporation, regardless of merit, results in litigation, with additional expense and distraction for the Company. Further, if a court determines that any such litigation has merit, we may be required to pay substantial monetary damages or attorneys' fees.

What Changes After the Reincorporation?

The Reincorporation will effect a change in the state of incorporation of the Company and other changes, the most significant of which are described below. Following the Reincorporation, we will be governed by the TBOC instead of the DGCL, and we will be governed by the Texas Charter and the Texas Bylaws instead of the Delaware Charter and the Delaware Bylaws. Copies of the Delaware Charter and Delaware Bylaws are included as Appendix C and Appendix D, respectively, to this Information Statement, and copies of the Texas Charter and Texas Bylaws are included as Appendix E and Appendix F, respectively, to this Information Statement.

Certain Differences Between the Delaware Charter and Bylaws and the Texas Charter and Bylaws

The Texas Charter and the Texas Bylaws have been drafted with an intent to parallel the Delaware Charter and the Delaware Bylaws to the extent practicable. In addition, there are differences between the Delaware Charter and Delaware Bylaws and the Texas Charter and Texas Bylaws as they will be in effect after the Reincorporation, particularly with respect to changes (i) that are required by Texas law, (ii) that are necessary in order to preserve certain rights of stockholders and powers of the Board of Directors following the Reincorporation, or (iii) that the Board of Directors has determined are otherwise in the best interests of the Company and its stockholders.

The following discussion is a summary of certain differences between the Texas Charter and the Delaware Charter and between the Texas Bylaws and the Delaware Bylaws. This summary does not cover all the differences between the Delaware Charter and Delaware Bylaws and the Texas Charter and Texas Bylaws. This summary is subject to the complete text of the relevant provisions of the Texas Charter and Texas Bylaws and the Delaware Charter and Delaware Bylaws. We encourage you to read those documents carefully.

Comparison of the Delaware Charter and Texas Charter

Issue	Delaware Charter	Texas Charter
Acts Requiring Stockholder Approval	Certain matters requiring stockholder approval under the DGCL, including certain fundamental business transactions and amendments to the certificate of incorporation, require a default vote of the holders of a majority of the voting power of the outstanding stock entitled to vote thereon, unless the charter specifies a higher voting threshold. The Delaware Charter does not include a higher voting threshold for many fundamental business transactions, so the default voting standard under the DGCL generally applies to such transactions. However, the Delaware Charter requires the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, to adopt, amend or repeal any provision of the Delaware Charter. In addition, the Delaware Charter provides that the Company shall not consolidate, merge, combine or consummate any other transaction in which shares of Class A Common Stock are exchanged for or converted into other stock or securities, or the right to receive cash and/or any other property, unless each share of Class B Common Stock and/or Class B Unit is entitled to be exchanged for or converted into the same kind and amount of consideration, unless such transaction is approved by the holders of a majority of the outstanding Class A Common Stock and the holders of a majority of the outstanding Class B Common Stock, each voting as a separate class.	Under the TBOC, certain matters subject to a shareholder vote, including "fundamental business transactions" such as mergers, sales of substantially all assets, and other transactions, require a default vote of 2/3 of the shareholders of each class, unless the charter specifies a lower voting threshold. To align with the current Delaware Charter, the Texas Charter provides that, except as otherwise required by the Texas Charter, and notwithstanding any provision of the TBOC to the contrary, (a) all classes or series of stock vote as a single class, and separate voting by class or series is not required, for the purpose of approving any matter, and (b) the approval of a "fundamental action" (other than an amendment to the Texas Charter) or "fundamental business transaction" (each as defined in the TBOC) requires the affirmative vote of the holders of at least a majority of the voting power of all of the outstanding shares of stock entitled to vote thereon, voting together as a single class. Consistent with the Delaware Charter, however, amendments to the Texas Charter require the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class.
Board of Directors Vacancies	The Delaware Charter provides that, prior to any time that Tim Vanderhook, Chris Vanderhook and Four Brothers 2 LLC collectively cease to beneficially own a majority of the combined voting power of the Class A Common Stock and Class B Common Stock (the "Triggering Event"), subject to the rights of the holders of any outstanding series of preferred stock, and unless otherwise required by law, newly created directorships resulting from any increase in the authorized number of directors and any vacancies in the Board of	The TBOC provides that director vacancies may be filled by (1) a vote of a majority of the remaining members of the board of directors, (2) the sole remaining director, or (3) a vote of holders of a majority of the outstanding shares of stock. In addition, the TBOC prevents a board of directors from filling more than two vacancies caused by an increase in the size of the board of directors between any two annual meetings of shareholders, and provides that any directors appointed by the board of directors to fill such a vacancy may serve

Issue	Delaware Charter	Texas Charter
	Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause may be filled by the affirmative vote of (i) a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors, or by the sole remaining director or (ii) at least a majority of the voting power of the stock outstanding and entitled to vote thereon. After the Triggering Event, such newly created directorships and vacancies shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors, or by the sole remaining director, and may not be filled by the stockholders. Any director so chosen shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.	only until the next election of one or more directors by the shareholders. The Texas Charter provides that (1) director vacancies may be filled in any manner permitted by the TBOC and (2) newly created directorships resulting from an increase in the number of directors may be filled in any manner permitted by the TBOC, including by the Board of Directors, provided that a quorum is present, in each case to the extent permitted by the TBOC.
Director and Officer Liability	Under Delaware law, a corporation may include in its certificate of incorporation a provision eliminating or limiting the personal liability of a director or officer to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, provided that such provision shall not eliminate or limit the liability of: (i) a director or officer for any breach of the director's or officer's duty of loyalty to the corporation or its stockholders; (ii) a director or officer for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) a director for the unlawful payment of dividends or unlawful stock purchases or redemptions; (iv) a director or officer for any transaction from which the director or officer derived an improper personal benefit; or (v) an officer in any action by or in the right of the corporation. The Delaware Charter provides that, to the fullest extent permitted by the DGCL as the same exists or as may hereafter be amended, no director of the Company shall be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director. The Delaware Charter does not	Under Texas law, a corporation may include in its certificate of formation a provision eliminating or limiting the personal liability of a director or officer to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director or officer, provided that such provision shall not eliminate or limit the liability of: (i) a director or officer for any breach of the director's or officer's duty of loyalty to the corporation or its stockholders; (ii) a director or officer for acts or omissions not in good faith that (a) constitutes a breach of duty of the director or officer to the corporation or (b) involves intentional misconduct or a knowing violation of law; (iii) a director or officer for any transaction from which the director or officer derived an improper personal benefit; or (iv) an officer or director for any act or omission for which the liability of a director or officer is expressly provided by an applicable statute. The Texas Charter eliminates the personal liability of the Texas Corporation's directors and officers to the Texas Corporation or its shareholders for monetary damages for any breach of fiduciary duties as a director or officer, as

Issue	Delaware Charter	Texas Charter
	eliminate the personal liability of the Company's officers.	applicable, to the fullest extent permitted by Texas law (now or in the future). Following the Reincorporation, our directors and officers will be governed by the TBOC, including its codified business judgment rule, and will benefit from the exculpation, indemnification and advancement provisions of the Texas Charter and Texas Bylaws described in this Information Statement, which may limit their personal liability to a greater extent than the DGCL and the Delaware Charter, including, in the case of our officers, because the Delaware Charter does not currently eliminate the personal liability of officers.
Stockholder Action by Written Consent	The Delaware Charter provides that, prior to the Triggering Event, except as otherwise provided for or fixed pursuant to certain provisions of the Delaware Charter (including any Preferred Stock Designation (as defined in the Delaware Charter)), any action required or permitted to be taken at any annual or special meeting of the stockholders of the Company may be taken without a meeting, without prior notice and without a vote by consent in accordance with Section 228 of the DGCL. After the Triggering Event, except with respect to actions required or permitted to be taken solely by holders of Preferred Stock pursuant to certain provisions of the Delaware Charter (including any Preferred Stock Designation), no action that is required or permitted to be taken by the stockholders of the Company may be effected by consent of stockholders in lieu of a meeting of stockholders.	The Texas Charter provides that, prior to the Triggering Event (as defined in the Texas Charter), shareholders are permitted to take action by written consent of the holders of outstanding shares of voting stock having not less than the minimum voting power that would be necessary to authorize or take such action at an annual or special meeting. Following the Triggering Event, in accordance with the TBOC, shareholders are only permitted to take action by written consent of the holders of all the then-outstanding shares of voting stock entitled to vote on such action.
Calling of Special Stockholder Meetings	The Delaware Charter provides that, except as otherwise required by law, and except as otherwise provided for or fixed pursuant to certain provisions of the Delaware Charter (including any Preferred Stock Designation), a special meeting of the stockholders of the Company may be called at any time only by or at the direction of the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer with the concurrence of a majority of the Board of Directors, and may not be	The Texas Charter provides that special meetings of the shareholders may be called only by or at the direction of the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer with the concurrence of a majority of the Board of Directors, or by holders of outstanding shares of voting stock having not less than 50% (or the highest percentage then permitted under the TBOC) of the voting power of all

Issue	Delaware Charter	Texas Charter
	called by the stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been specified in the notice for such meeting.	outstanding shares of voting stock entitled to vote at such meeting.
Jury Trial Waivers	The Delaware Charter does not include a waiver of the right to jury trials. Were a stockholder to file suit in the Delaware Court of Chancery, there would be no right to a jury trial as the Court of Chancery, as a court of equity, does not conduct jury trials.	In Texas, jury trials are available under certain circumstances. Under the TBOC, a corporation may include a waiver of the right to a jury trial in its governing documents concerning any internal entity claim. The Texas Charter includes a waiver of the right to a jury trial with respect to any internal entity claim and, to the fullest extent permitted by applicable law, any other legal action within the scope of the exclusive forum provision of the Texas Charter.
Choice of Forum; Exclusive Forum	The Delaware Charter designates the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have, or declines to accept, jurisdiction, another state court or a federal court located within the State of Delaware) as the sole and exclusive forum for any complaint asserting any internal corporate claims. Furthermore, unless the Company consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. The Delaware Charter's forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act.	The Texas Charter provides that, unless the Texas Corporation consents in writing to the selection of an alternative forum, the Business Court in the First Business Court Division of the State of Texas (or, if the Business Court determines that it lacks jurisdiction, the United States District Court for the Northern District of Texas, Dallas Division, or, if that court lacks jurisdiction, the state district court of Dallas County, Texas) shall, to the fullest extent permitted by law, be the sole and exclusive forum for any and all disputes, claims, actions or proceedings, including, but not limited to, (i) any derivative action or proceeding brought on behalf of the Texas Corporation, (ii) any action asserting a claim for or based on a breach of a fiduciary duty owed by any current or former director, officer, other employee, agent or shareholder, (iii) any action arising pursuant to any provision of the TBOC, the Texas Charter or the Texas Bylaws, (iv) any action to interpret, apply, enforce or determine the validity of the Texas Charter or the Texas Bylaws, (v) any action asserting a claim governed by the internal affairs doctrine, (vi) any action asserting an "internal entity claim" or (vii) any other action within the jurisdiction of the Business Court. Unless the Texas Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States

Issue	Delaware Charter	Texas Charter
		of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act, and the U.S. District Court for the Northern District of Texas shall be the exclusive forum for any claim arising under the Exchange Act that is brought derivatively on behalf of the Texas Corporation or as to which the Texas Corporation is the real party in interest.

Comparison of the Delaware Bylaws and Texas Bylaws

Provision	Delaware Bylaws	Texas Bylaws
Board of Directors Committees	The Delaware Bylaws provide that each committee of the Board of Directors, to the extent permitted by law and provided in a resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Company; but no such committee shall have the power or authority in references to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval; or (ii) adopting, amending or repealing any bylaw of the Company.	Similar to the Delaware Bylaws, the Texas Bylaws provide that each committee of the Board of Directors, to the extent provided in the resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Texas Corporation. In accordance with the TBOC, the Texas Bylaws provide that no such committee shall have the power or authority to take any action that a committee of the board of directors may not validly take under the TBOC, as it presently exists or may hereafter be amended.
Advancement of Expenses	The Delaware Bylaws provide that an advancement of expenses (as defined in the Delaware Bylaws) shall be made only upon delivery to the Company of an undertaking, by or on behalf of the indemnitee (as defined in the Delaware Bylaws), to repay all amounts so advanced if it shall ultimately be determined by final judicial decision of a court of competent jurisdiction from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under the Delaware Bylaws or otherwise.	In addition to the undertaking described in the Delaware Bylaws, the TBOC requires an indemnitee to deliver to the corporation a written affirmation of the indemnitee's good faith belief that he or she has met the standard of conduct necessary for indemnification. This requirement is included in the Texas Bylaws.
Notice to Stockholders	The Delaware Bylaws provide that notice of every meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such	The Texas Bylaws, like the Delaware Bylaws, provide that written notice of every meeting of shareholders shall be given in accordance with applicable law. Unlike the DGCL, the TBOC does not

Provision	Delaware Bylaws	Texas Bylaws
	meeting, except as otherwise provided by law, the Delaware Charter or the Delaware Bylaws. The Delaware Bylaws further provide that notice shall be deemed to have been given to all stockholders who share an address if notice is given in accordance with the "householding" rules set forth in Rule 14a-3(e) under the Exchange Act and Section 233 of the DGCL. The DGCL permits the corporation to deliver a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. The DGCL further provides that any stockholder who fails to object within 60 days of having been given written notice by the corporation of the intention to send the single notice shall be deemed to have consented to receiving such single notice. The Delaware Bylaws also provide that, so long as the Company is subject to the proxy rules of the Securities and Exchange Commission (the "SEC"), notice may be given by electronic transmission directed to a stockholder's electronic mail address, unless the stockholder has notified the Company in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by Section 232(e) of the DGCL, and that notice may be given by other forms of electronic transmission with the consent of the stockholder in the manner permitted by Section 232(b) of the DGCL.	currently include provisions allowing for a single notice to be delivered to multiple shareholders at the same address, and accordingly the Texas Bylaws provide that notice delivered in accordance with the SEC's "householding" rules will be deemed given to shareholders sharing an address only to the extent permitted by the TBOC. Also, under the TBOC, shareholders must give affirmative consent to receive electronic transmissions. Accordingly, the Texas Bylaws provide that notice may be given by electronic mail or other form of electronic transmission only with the consent of the shareholder to whom such notice is given, in the manner permitted by the TBOC.
Ownership Threshold for Derivative Proceedings	The DGCL does not expressly authorize any minimum ownership threshold for stockholders who wish to bring derivative suits. The Delaware Bylaws do not include an ownership threshold for bringing derivative proceedings.	The TBOC allows certain corporations, including corporations listed on a national securities exchange, to impose a minimum ownership threshold for shareholders who wish to bring derivative suits (up to 3% of the corporation's outstanding shares). The Texas Bylaws provide that, during any time that the Texas Corporation has its common stock listed on a national securities exchange or has 500 or more shareholders, a shareholder or group of shareholders must beneficially own at least 3% of the outstanding shares of common stock of the Texas Corporation to institute or maintain a derivative proceeding.

Certain Differences in Stockholder Rights under Delaware and Texas Law

The statutory corporate laws of Texas, as governed by the TBOC, are similar in many respects to those of Delaware, as governed by the DGCL. However, there are differences between what your rights are under Delaware law and what they will be under Texas law. The following are brief summaries of certain legal considerations relating to the current rights of stockholders of a Delaware corporation and the shareholders of a Texas corporation and the corporate governance of a company in Delaware and in Texas.

The following discussion does not provide a complete description of the differences that may affect you. This summary is qualified in its entirety by reference to the TBOC and DGCL, the Delaware Charter and Delaware Bylaws, the Texas Charter and Texas Bylaws, and the body of case law in both jurisdictions, and some of the differences in the legal considerations below may not affect you in light of the provisions of the Texas Charter and Texas Bylaws, which opt in to certain determinations as permitted under the TBOC.

Issue	Delaware	Texas
Fiduciary Duties	In Delaware, fiduciary duties are generally developed by case law. In general, directors and officers owe the fiduciary duties of care and loyalty (which further include the duties of good faith, oversight, and disclosure) to the corporation and its stockholders. The duty of care requires directors not to act with gross negligence, including, depending on the facts and circumstances, by being well-informed and considering reasonably available relevant information. The duty of loyalty requires directors to act in good faith and under the belief that their actions will be best for the corporation and its stockholders. Directors are "fully protected" if they rely in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation. In addition, under Delaware law, controlling stockholders of a corporation may owe fiduciary duties to the corporation and its minority stockholders in certain circumstances, including when engaging in conflict transactions or when the controlling stockholder is selling its shares or seeking to change the status quo using its voting power. However, the recent amendments to the DGCL provide that controlling stockholders and control	In Texas, fiduciary duties are generally developed by case law, subject to the statutory business judgment rule described below. Directors and officers owe fiduciary duties of loyalty, due care, and obedience (i.e., duty to follow the law and the governing agreements of the corporation) to the corporation. Directors and officers may rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by an officer or employee of the entity, legal counsel, a certified public accountant, an investment banker, a person who the director or officer reasonably believes possesses professional expertise in the matter, or a committee of the corporation on which the director or officer does not serve. Texas case law has not defined the concept of a "controlling shareholder" in a publicly traded corporation, but Texas case law holds that controlling shareholders do not generally owe formal fiduciary duties to their fellow shareholders. While a few cases have recognized that a relationship between particular shareholders may constitute a "confidential relationship," which could give rise to informal fiduciary duties, Texas law generally allows shareholders to act in their own interests.

Issue	Delaware	Texas
	groups, in their capacity as such, cannot be liable for monetary damages for breach of the duty of care.	
Business Judgment Rule	Under Delaware law, directors and officers are generally protected by the business judgment rule, which is a presumption that in making a business decision, the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company. Under the business judgment rule, a court will generally not second-guess directors' decisions unless the business judgment rule's presumptions have been rebutted for a majority of directors who made the challenged decision. If the business judgment rule's presumptions have been rebutted for a majority of directors, directors will not be personally liable absent a finding of non- exculpated fiduciary misconduct. Personal liability for breach of the duty of care cannot occur unless (1) the director acted with gross negligence and (2) the certificate of incorporation lacks an applicable exculpation provision. The Delaware Charter has an exculpation provision which forecloses personal liability for monetary damages for breach of fiduciary duty as a director. Delaware courts apply enhanced scrutiny in certain scenarios involving the adoption of defensive measures, certain change of control transactions, and certain scenarios involving interference with stockholders' voting rights. If enhanced scrutiny applies, the court generally reviews directors' actions for reasonableness. Delaware courts apply the entire fairness standard of review where either (1) a majority of directors who made the challenged decision were interested or lacked independence or (2) the transaction involved a conflicted controlling stockholder. Under the entire fairness standard, the burden is generally on the defendant fiduciaries to demonstrate that the act or transaction was a product of fair dealing and resulted in a fair price.	Under Texas law, directors and officers are generally protected by the business judgment rule, which protects directors and officers from liability for decisions that may be considered negligent or unwise if made in good faith and within their discretion in furtherance of the corporation's interests. In particular, a corporation with a series or class of stock listed on a national securities exchange is protected by a codified business judgment rule which establishes a presumption that directors and officers, in deciding upon matters of business, are presumed to act in good faith, on an informed basis, in furtherance of the interests of the corporation, and in obedience to the law and the corporation's governing documents. This presumption governs director and officer liability in all matters of the corporation's business (including transactions with interested persons), and neither the corporation nor any shareholder has a claim against a director or officer unless they (a) rebut the presumption and (b) prove an act or omission that both (1) is a breach of a duty and (2) constitutes intentional misconduct, fraud, an ultra vires act or a knowing violation of law. By requiring intentional misconduct, Texas law prevents a claim of breach of duty arising out of negligence or gross negligence. In addition, the Texas Charter has an exculpation provision which forecloses personal liability for duty of care breaches.

Issue	Delaware	Texas
	However, the DGCL provides that if a statutory safe harbor applies, the act or transaction cannot be the subject of equitable relief or give rise to an award of money damages against directors, officers, or controlling stockholders.	
Increasing or Decreasing Authorized Capital Stock, Including Number of Unissued Shares of a Series of Preferred Stock	Under the DGCL, the board of directors cannot increase or decrease the amount of authorized capital stock without stockholder approval. Notwithstanding the foregoing, if the corporation only has one class of stock outstanding and such class is not divided into series, then unless otherwise expressly required by the certificate of incorporation, stockholder approval is not required to adopt an amendment to the certificate of incorporation that effects a forward stock split and, in connection therewith, such amendment may also increase the number of authorized shares up to an amount proportionate to the subdivision without stockholder approval. See "Charter Amendments" below.	Under the TBOC, once stock has been issued, the board of directors cannot unilaterally increase or decrease the authorized capital stock without shareholder approval unless the increase in the number of authorized shares is in connection with a forward stock split, in which case the number of authorized shares can be increased up to an amount proportionate to the subdivision without stockholder approval, provided that the corporation only has one class of stock outstanding and such class is not divided into series (unless stockholder approval is expressly required by the certificate of incorporation). With respect to a series of shares of preferred stock established by the board of directors if authorized by the corporation's certificate of formation (and subject thereto), unless the certificate of formation expressly restricts the board of directors from increasing or decreasing the number of unissued shares of a series to be established by the board of directors, the board of directors may increase or decrease the number of shares in each series to be established, except that the board of directors may not decrease the number of shares in a particular series to a number that is less than the number of shares in that series that are issued at the time of the decrease.
Procedures for Filling Vacant Directorships	Under the DGCL, unless otherwise provided in the certificate of incorporation or bylaws: (1) vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director; and (2) whenever the holders of any class or classes of stock or series thereof are entitled to elect one or	Under the TBOC, except as provided below with respect to class voting, vacancies may be filled by the affirmative vote of the majority of the remaining directors, even if less than a quorum, or by the election at an annual or special meeting of shareholders called for that purpose. The term of a director elected to fill a vacancy occurring in the board of directors is the unexpired term of the director's predecessor in office and until the director's successor is elected and qualified. Except as provided below

Issue	Delaware	Texas
	more directors by the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. In the case of a Delaware corporation the directors of which are divided into classes, any directors chosen under (1) of the above shall hold office until the next election of the class for which such directors shall have been chosen, and until their successors shall be elected and qualified. Directors chosen under (2) above shall serve for such a term as shall be stated in the certificate of incorporation.	with respect to class voting, a directorship to be filled because of an increase in the number of directors may be filled by the shareholders or by the board of directors for a term of office continuing only until the next election of one or more directors by the shareholders. The board of directors may not fill more than two such directorships during the period between any two successive annual meetings of shareholders. Unless otherwise authorized by a corporation's certificate of formation, a vacancy or a newly created vacancy in a director position that the certificate of formation entitles the holders of a class or series of shares or group of classes or series of shares to elect may be filled only: (1) by the affirmative vote of the majority of the directors then in office elected by the class, series, or group; (2) by the sole remaining director elected in that manner; or (3) by the affirmative vote of the holders of the outstanding shares of the class, series, or group.
Committees	Under the DGCL, the board of directors may, by resolution, designate one or more committees, each consisting of one or more directors. The board of directors may also designate one or more director(s) as alternate committee members who can replace any absent or disqualified member. The board of directors can authorize any committee to have and to exercise all the powers and authority of the board in the management of the business, but no committee of a corporation (like the Company) formed after July 1, 1996 can: (1) approve, adopt, or recommend to the stockholders any action or matter (other than election or removal of directors) expressly required by statute to be submitted to stockholders for approval; or (2) adopt, amend, or repeal any bylaw.	Under the TBOC, the board of directors may designate committees composed of one or more directors if authorized by the certificate of formation or the bylaws of the corporation. Once appointed, a committee has the full authority of the board of directors, though such authority may be limited by the resolution that created the committee, the certificate of formation, the bylaws, or the TBOC. A committee cannot (1) amend the certificate of formation, except to establish a series of shares, change the number of shares in a series, or eliminate a series of shares; (2) propose a reduction of stated capital; (3) approve a plan of merger, share exchange, or conversion; (4) recommend to the shareholders the sale, lease, or exchange of all or substantially all of the property and assets of the corporation not made in the ordinary course of business; (5) recommend to the shareholders a voluntary winding up and termination or revocation of such action; (6) amend, adopt, or repeal bylaws; (7) fill board vacancies; (8) fill committee vacancies or

Issue	Delaware	Texas
		designate alternate committee members; (9) fill vacancies due to an increase in the number of directors; (10) elect or remove officers or committee members; (11) set committee member compensation; or (12) alter or repeal a board resolution that states that the board resolution cannot be amended or repealed by a committee.
Action by Written Consent of Stockholders	Under the DGCL, unless otherwise provided in the certificate of incorporation, stockholders may act without a meeting, without prior notice and without a vote, with the written consent of the stockholders having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. If less than unanimous written consent is given, the corporation generally must give prompt notice of the action taken to the nonconsenting stockholders.	Under the TBOC, shareholders may act without a meeting, without prior notice and without a vote, with the written consent of (1) all shareholders or (2) if authorized by the certificate of formation, the shareholders having at least the minimum number of votes that would be necessary to take the action that is the subject of the consent at a meeting, in which each owner or member entitled to vote on the action is present and votes. If less than unanimous written consent is given, the corporation must give prompt notice of the action taken to the non-consenting shareholders.
Special Meetings of the Stockholders	Under the DGCL, the board of directors, or any other one or more persons authorized in the certificate of incorporation or bylaws, may call a special meeting. Stockholders do not have a statutory right to call a special meeting, but the certificate of incorporation or bylaws for the corporation may provide for such right. Under the DGCL, the only business that may be conducted at a special meeting of the stockholders is business that is stated in the notice of meeting.	Under the TBOC, special meetings of the shareholders of a corporation may be called by: (1) the president, the board of directors, or any other person authorized to call special meetings by the certificate of formation or bylaws of the corporation; or (2) the holders of the percentage of shares specified in the certificate of formation, not to exceed 50% of the shares entitled to vote or, if no percentage is specified, at least 10% of all of the shares of the corporation entitled to vote at the proposed special meeting. Under the TBOC, a corporation cannot prohibit its shareholders from calling a special meeting of shareholders.
Adjournment of Stockholder Meetings	Under the DGCL, unless the bylaws provide otherwise, a meeting of stockholders may be adjourned to another time or place without notice if the time, place, if any, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are: (1) announced at the meeting at which the adjournment is taken; (2) displayed, during the time scheduled for the meeting, on the same	Under the TBOC, unless the certificate of formation or bylaws provide otherwise, a meeting of shareholders may be adjourned due to lack of quorum until the time and to the place as may be determined by a vote of the holders of the majority of the shares who are present or represented by proxy at the meeting. The TBOC does not have a specific provision on the notice for an adjourned meeting or the business that may be transacted at an adjourned meeting. Generally, under the TBOC, the only

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	electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communication; or (3) set forth in the notice of meeting. Under the DGCL, if a meeting of stockholders is adjourned for more than 30 days, or if after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, notice of the adjourned meeting must be given to each stockholder of record entitled to vote at the meeting, or each stockholder of record entitled to vote at the adjourned meeting as of the new record date set for notice of the adjourned meeting, respectively. At the adjourned meeting the corporation may transact any business that might have been transacted at the original meeting.	business that may be conducted at a special meeting of the shareholders is business that is within the purposes described in the notice.
Voting by Proxy	Under the DGCL, a stockholder may authorize another person or persons to act for such stockholder by proxy. A proxy is valid for three years from its date unless a longer period is provided in the proxy.	Under the TBOC, a shareholder may authorize another person or persons to act for such shareholder by proxy. A proxy is valid for eleven months from its date of execution unless otherwise provided in the proxy.
Quorum and Required Vote for Stock Corporations	Under the DGCL, the certificate of incorporation or bylaws of a Delaware corporation may specify the number of shares and/or the amount of other securities having voting power the holders of which must be present or represented by proxy at any meeting in order to constitute a quorum for, and the votes that shall be necessary for, the transaction of any business, but in no event shall a quorum consist of less than one-third of the shares entitled to vote at the meeting, except that, where a separate vote by a class or series or classes or series is required, a quorum shall consist of no less than one-third of the shares of such class or series or classes or series. In the absence of such specification in the certificate of incorporation or bylaws of the corporation: (1) a majority of the voting power of the shares entitled to vote, present in person or represented by proxy, shall constitute a quorum at a meeting of stockholders; (2) in all matters other than the election of directors, the affirmative vote of the majority of the voting power of	Under the TBOC, subject to the following sentence, the holders of the majority of the shares entitled to vote at a meeting of the shareholders of a Texas corporation that are present or represented by proxy at the meeting are a quorum for the consideration of a matter to be presented at that meeting. The certificate of formation of a corporation may provide that a quorum is present only if: (1) the holders of a specified portion of the shares that is greater than the majority of the shares entitled to vote are represented at the meeting in person or by proxy; or (2) the holders of a specified portion of the shares that is less than the majority but not less than one-third of the shares entitled to vote are represented at the meeting in person or by proxy. The certificate of formation or bylaws of a corporation may provide that a director of a corporation shall be elected only if the director receives: (1) the vote of the holders of a specified portion, but not less than the majority, of the shares entitled to vote in the election of directors; (2) the

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	the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders; (3) directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors; and (4) where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter and, in all matters other than the election of directors, the affirmative vote of the majority of shares of such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series. A bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the board of directors.	vote of the holders of a specified portion, but not less than the majority, of the shares entitled to vote in the election of directors and represented in person or by proxy at a meeting of shareholders at which a quorum is present; or (3) the vote of the holders of a specified portion, but not less than the majority, of the votes cast by the holders of shares entitled to vote in the election of directors at a meeting of shareholders at which a quorum is present. If no standard is specified, directors of a corporation shall be elected by a plurality of the votes cast. Subject to the following sentence, with respect to a matter other than the election of directors or a matter for which the affirmative vote of the holders of a specified portion of the shares entitled to vote is required by the TBOC, the affirmative vote of the holders of the majority of the shares entitled to vote on, and who voted for, against, or expressly abstained with respect to, the matter at a shareholders' meeting of a corporation at which a quorum is present is the act of the shareholders. With respect to a matter other than the election of directors or a matter for which the affirmative vote of the holders of a specified portion of the shares entitled to vote is required by the TBOC, the certificate of formation or bylaws of a corporation may provide that the act of the shareholders of the corporation is: (1) the affirmative vote of the holders of a specified portion, but not less than the majority, of the shares entitled to vote on that matter; (2) the affirmative vote of the holders of a specified portion, but not less than the majority, of the shares entitled to vote on that matter and represented in person or by proxy at a shareholders' meeting at which a quorum is present; (3) the affirmative vote of the holders of a specified portion, but not less than the majority, of the shares entitled to vote on, and who voted for or against, the matter at a shareholders' meeting at which a quorum is present; or (4) the affirmative vote of the holders of a specified portion, but not less than the majority, of the shares entitled to vote on, and who voted for, against, or

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		expressly abstained with respect to, the matter at a shareholders' meeting at which a quorum is present. If the certificate of formation provides for more or less than one vote per share on a matter for all of the outstanding shares or for the shares of a class or series, each reference in the TBOC or in the certificate of formation or bylaws, unless expressly stated otherwise, to a specified portion of the shares with respect to that matter refers to the portion of the votes entitled to be cast with respect to those shares under the certificate of formation.
Stockholder Vote for Fundamental Business Transactions	Under the DGCL, a majority of the outstanding stock of the corporation entitled to vote thereon generally must approve fundamental changes, such as: (1) certain mergers or consolidations; (2) a sale, lease, or exchange of all or substantially all of the corporation's assets (as described below); (3) dissolution; (4) conversion of a domestic corporation to other entities; and (5) transfer, domestication or continuance of a domestic corporation to a foreign jurisdiction. The certificate of incorporation may contain provisions requiring for any corporate action the vote of a larger portion of the stock or of any class or series thereof than is required by the DGCL.	Under the TBOC, unless otherwise provided for in the TBOC or the certificate of formation of a corporation, shareholders holding at least two- thirds of the outstanding shares of a class entitled to vote on the matter must typically approve fundamental business transactions such as: (1) a merger; (2) an interest exchange; (3) a conversion; or (4) a sale of all or substantially all of the corporation's assets that is not made in the usual and regular course of the corporation's business. The certificate of formation can provide for a different threshold of approval, but not less than a majority of the shares entitled to vote. Except as provided by the TBOC, if a class or series of shares is entitled to vote as a class or series on a fundamental business transaction, the affirmative vote of the holders of at least two-thirds of the outstanding shares in each such class or series of shares entitled to vote on the transaction as a class or series is also required to approve the fundamental business transaction, unless a different threshold, not less than a majority, is specified in the certificate of formation. Shares entitled to vote as a class or series shall only be entitled to vote as a class or series on the fundamental business transaction unless that class or series is otherwise entitled to vote on each matter submitted to the shareholders generally or is otherwise entitled to vote under the certificate of formation. However, a corporation may include in its certificate of

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		formation a provision that all shares vote as a single class, and the Texas Charter so provides.
Stockholder Vote for Sales, Leases, Exchanges or Other Dispositions	Under the DGCL, a Delaware corporation may sell, lease or exchange all or substantially all of its property and assets (provided that no stockholder authorization or consent is required (A) to mortgage or pledge the corporation's property and assets unless the certificate of incorporation so requires or (B) where the property or assets in the sale, lease or exchange is collateral that secures a mortgage or is pledged to a secured party and certain additional conditions are met) upon such terms and conditions and for such consideration as the board of directors deems expedient and for the best interests of the corporation, when and as authorized by a majority of the outstanding stock of the corporation entitled to vote thereon. No such approval is required, however, if the assets being sold, leased or exchanged are not all or substantially all of the corporation's assets. There is no specific quantity or percentage that definitively governs whether the asset(s) to be sold, leased or exchanged constitute(s) substantially all of the corporation's assets. Instead, the inquiry hinges on a fact-intensive evaluation of whether the assets to be sold are quantitatively and qualitatively vital to the business of the corporation. For purposes of determining whether assets to be sold, leased or exchanged constitute substantially all of the corporation's assets, the assets of the corporation include the assets of the corporation's director and indirect wholly-owned and controlled subsidiaries.	Under the TBOC, generally the sale, lease, exchange or other disposition of all, or substantially all, of the property and assets of a Texas corporation requires the approval of the holders of at least two-thirds of the outstanding shares of the corporation entitled to vote, unless the corporation's certificate of formation sets a lower threshold (which may not be less than a majority of the voting shares). No such approval is required, however, if the transaction is made in the usual and regular course of a Texas corporation's business. Under Texas law, even the transfer of substantially all of a corporation's assets in such a manner that the corporation continues directly or indirectly to engage in one or more businesses is deemed not to be a transaction requiring shareholder approval under the TBOC. Except as provided by the TBOC, if a class or series of shares is entitled to vote as a class or series on a sale, lease, exchange or other disposition of all, or substantially all, of the property and assets, the affirmative vote of the holders of at least two-thirds of the outstanding shares in each such class or series of shares entitled to vote on the transaction as a class or series is also required to approve the sale, lease, exchange or other disposition of all, or substantially all, of the property and assets, unless a different threshold, not less than a majority, is specified in the certificate of formation. Shares entitled to vote as a class or series shall only be entitled to vote as a class or series on the fundamental business transaction unless that class or series is otherwise entitled to vote on each matter submitted to the shareholders generally or is otherwise entitled to vote under the certificate of formation, although a corporation may provide that all shares vote as a single class even in such transactions.
Business Combinations Statute	Under the DGCL, unless a Delaware corporation's certificate of incorporation or bylaws (original, or approved by stockholders) provide otherwise, Delaware	Under the TBOC, a Texas "issuing public corporation" is generally prohibited from, directly or indirectly, entering into (i) mergers, share exchanges or conversions

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	corporations that have a class of voting stock listed on a national securities exchange or held of record by 2,000 or more persons are generally prohibited from entering into any "business combination" with any "interested stockholder" for a period of three years following the time that such stockholder became an interested stockholder. The DGCL generally defines a "business combination" as (i) certain mergers and consolidations; (ii) sales leases, exchanges, mortgages, pledges, transfers or other dispositions of assets having an aggregate market value of 10% or more of either the consolidated assets or the outstanding stock of a company; (iii) certain transactions that would result in the issuance or transfer of stock of the corporation to an interested stockholder; (iv) certain transactions that have the effect, directly or indirectly, of increasing the proportionate share of stock of the corporation which is owned by the interested stockholder, subject to exceptions; and (v) any receipt by the interested stockholder of the benefit, directly or indirectly, of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation, subject to certain exceptions. "Interested stockholder" is generally defined as a person that directly or indirectly owns (together with its affiliates and associates) 15% or more of the outstanding voting stock of a Delaware corporation or is an affiliate or associate of the corporation and was the owner (together with its affiliates and associates) of 15% or more of the outstanding voting stock of the corporation at any time within the 3- year period before the date on which it is sought to be determined whether such person is an interested stockholder, in each case subject to certain exceptions. The DGCL provides an exception to this prohibition if: (i) the corporation's board of directors approved either the business combination or the transaction in which the stockholder became an interested stockholder prior to the date the interested stockholder became an interested	with an affiliated shareholder or other entity that after such transaction would be an affiliate or associate of an affiliated shareholder, and certain other entities, (ii) sales, leases, exchanges, mortgages, pledges, transfers or other dispositions of assets having an aggregate market value of 10% or more of (a) the aggregate market value of the consolidated assets of such Texas public corporation, (b) the aggregate market value of the outstanding voting stock of such Texas public corporation or (c) the earning power or net income of such Texas public corporation on a consolidated basis, (iii) certain transactions that would result in the issuance or transfer of shares of such Texas public corporation to an affiliated shareholder or an affiliate or associate, (iv) liquidation or dissolution plans or proposals with an affiliated shareholder or an associate or an affiliate of an associate of an affiliated shareholder, (v) certain transactions, including reclassifications of securities or other share distributions or recapitalizations, that have the effect, directly or indirectly, of increasing the proportionate ownership percentage of the outstanding shares of a class or series of voting shares or securities convertible into voting shares of the issuing public corporation that is beneficially owned by the affiliated shareholder or an affiliate or associate of the affiliated shareholder, except as a result of immaterial changes due to fractional share adjustments or (vi) loans, advances, guarantees, pledges, or other financial assistance or a tax credit or other tax advantages the recipient of which is an affiliated shareholder or an affiliate or associate of an affiliated shareholder, in each case, with an "affiliated shareholder" or any affiliate or associate of the "affiliated shareholder" for a period of three years after the date the shareholder obtained "affiliated shareholder" status. "Affiliated shareholder" is generally broadly defined as a person who beneficially owns (or has owned within the preceding three-year period) 20% or more of the outstanding voting stock of a Texas

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	stockholder; (ii) the interested stockholder acquired at least 85% of the voting stock of the corporation (excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, shares owned by persons who are directors and also officers, and employee stock plans in which participants do not have the right to determine whether shares will be tendered in a tender or exchange offer) in the transaction in which it became an interested stockholder; or (iii) the business combination is approved by the board of directors and the affirmative vote of at least two-thirds of the votes entitled to be cast by disinterested stockholders at an annual or special meeting (and not by written consent). A corporation may expressly elect in its certificate of incorporation to not be governed by this statute.	public corporation. "Issuing public corporation" means a Texas corporation that has: (i) 100 or more shareholders of record as shown by the share transfer records of the corporation; (ii) a class or series of the corporation's voting shares registered under the Exchange Act; or (iii) a class or series of the corporation's voting shares qualified for trading on a national securities exchange. The TBOC provides an exception to this prohibition if: (i) the board of directors of the corporation approves the transaction or the acquisition of shares by the affiliated shareholder prior to the affiliated shareholder becoming an affiliated shareholder; or (ii) the holders of at least two-thirds of the outstanding voting shares not beneficially owned by the affiliated shareholder or an affiliate or associate of the affiliated shareholder approve the transaction at a meeting held no earlier than six months after the shareholder acquires such ownership. The TBOC expressly provides that the foregoing shareholder approval may not be by written consent. A corporation may expressly elect in its certificate of formation to not be governed by this statute.
Charter Amendments	Under the DGCL, subject to limited exceptions, an amendment to the certificate of incorporation must be approved (i) by the board of directors and (ii) then, by the holders of a majority of the voting power of a Delaware corporation's outstanding stock entitled to vote thereon, unless the certificate of incorporation provides for a greater number. Whether or not entitled to vote by the certificate of incorporation, the holders of the outstanding shares of a class are entitled to vote as a class on a proposed amendment, if the amendment would (1) increase or decrease the aggregate number of authorized shares of such class; (2) increase or decrease the par value of the shares of such class; or (3) alter or change the powers, preferences, or special rights of the shares of such class so as to affect them adversely. However, the DGCL permits corporations to provide in their certificate	Under the TBOC, subject to limited exceptions, an amendment to the certificate of formation requires the approval of (i) the board of directors and (ii) the holders of at least two-thirds of the outstanding shares of a Texas corporation, unless a different threshold, not less than a majority, is specified in the certificate of formation. If a class or series of shares is entitled to vote as a class or series on an amendment to the certificate of formation, the affirmative vote of the holders of at least two-thirds, unless a different threshold, not less than a majority, is specified in the certificate of formation, of the outstanding shares in each such class or series of shares entitled to vote on the amendment as a class or series is also required to approve an amendment to the certificate of formation, although the TBOC allows corporations to provide that all shares vote as a single class for such an

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	of incorporation that no separate class vote(s) shall be required to increase or decrease the aggregate number of authorized shares of such class, in which case a share increase/decrease amendment would instead be approved by the holders of all outstanding shares, voting together as a single class. In addition, unless otherwise expressly required by the certificate of incorporation: (1) no meeting or vote of stockholders is required to adopt an amendment that reclassifies by subdividing the issued shares of a class of stock into a greater number of issued shares of the same class of stock (and, in connection therewith, such amendment may increase the number of authorized shares of such class of stock up to an amount proportionate to the subdivision), provided the corporation has only one class of stock outstanding and such class is not divided into series; and (2) an amendment to increase or decrease the authorized number of shares of a class of capital stock or an amendment to reclassify by combining the issued shares of a class of capital stock into a lesser number of issued shares of the same class of stock may be made and effected, without obtaining the vote or votes of stockholders described in the preceding paragraph if: (A) the shares of such class are listed on a national securities exchange immediately before such amendment becomes effective and meet the listing requirements of such national securities exchange relating to the minimum number of holders immediately after such amendment becomes effective, (B) at a properly called meeting, a vote of the stockholders entitled to vote thereon, voting as a single class, is taken for and against the proposed amendment, and the votes cast for the amendment exceed the votes cast against the amendment, and (C) if the amendment increases or decreases the authorized number of shares of a class of capital stock for which no provision in the certificate of incorporation has been made in accordance with the DGCL, the votes cast for the amendment by the holders of such class exceed the votes cast against the amendment by the holders of such class.	amendment. In addition, the TBOC also allows corporations to provide in their certificate of formation that no separate class vote(s) shall be required to increase or decrease the aggregate number of authorized shares of a class, in which case a share increase/decrease amendment would instead be approved by the holders of all outstanding shares, voting together as a single class.

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Bylaw Amendments	Under the DGCL, stockholders of a Delaware corporation entitled to vote thereon have the right to amend, repeal or adopt the bylaws. If a Delaware corporation's certificate of incorporation so provides, the Delaware corporation's board of directors may also have the right to amend, repeal or adopt the bylaws.	Generally, under the TBOC, the board of directors may amend, repeal or adopt a Texas corporation's bylaws. However, (i) the shareholders may amend, repeal or adopt bylaws even if the directors also have that power and (ii) a Texas corporation's certificate of formation may wholly or partly reserve the power to amend, repeal or adopt bylaws exclusively to the shareholders. Similarly, the shareholders, in amending, repealing or adopting a particular bylaw, may expressly provide that the board of directors may not amend, readopt or repeal that bylaw.
Dividends and Distributions	Under the DGCL, a Delaware corporation may, subject to any restrictions contained in its certificate of incorporation, pay dividends out of surplus or, if there is no surplus, out of net profits for the current and/or the preceding fiscal year, unless the capital of the corporation is less than the capital represented by issued and outstanding stock having preferences on asset distributions. In addition, a Delaware corporation may not pay dividends if doing so would render the corporation insolvent in the sense that it could not pay its debts as they come due or it would have an unreasonably small amount of capital for the business in which it is engaged or intends to engage, and also may not pay dividends if doing so would impair the corporation's ability to continue as a going concern.	Under the TBOC, a distribution is defined as a transfer of cash or other property (except a corporation's own shares or rights to acquire its shares or a split-up or division of the issued shares of a class of a corporation into a larger number of shares within the same class that does not increase the stated capital of the corporation), or an issuance of debt, by a corporation to its shareholders in the form of: (i) a dividend on any class or series of a Texas corporation's outstanding shares; (ii) a purchase or redemption, directly or indirectly, of its shares; or (iii) a payment in liquidation of all or a portion of its assets. Under the TBOC, a Texas corporation may not make a distribution if such distribution violates its certificate of formation, if the corporation's surplus is less than the amount of the corporation's stated capital (determined in accordance with the TBOC) or, unless a Texas corporation is in receivership or the distribution is made in connection with the winding up and termination of the Texas corporation, if it either renders a Texas corporation unable to pay its debts as they become due in the course of its business or affairs, or exceeds, depending on the type of distribution, either the net assets or the surplus of the Texas corporation, or, subject to certain exceptions, if the distribution will be made to shareholders of another class or series.
Stock Redemption and Repurchase	Under the DGCL, a Delaware corporation may purchase or redeem shares of any class	As noted above, under the TBOC, the purchase or redemption by a Texas

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	unless its capital is impaired or would be impaired by such purchase or redemption, except that the corporation may, however, purchase or redeem out of capital, shares that are entitled upon any distribution of its assets to a preference over another class or series of its stock, or, if no shares entitled to such a preference are outstanding, any of its own shares, if such shares are to be retired and the capital reduced. However, a corporation may not purchase redeemable shares for a price greater than that at which they would be redeemed. In addition, a Delaware corporation may not effect a repurchase or redemption if doing so would render the corporation insolvent in the sense that it could not pay its debts as they come due or it would have an unreasonably small amount of capital for the business in which it is engaged or intends to engage, and also may not repurchase or redeem shares if doing so would impair the corporation's ability to continue as a going concern.	corporation of its shares constitutes a distribution. Accordingly, the discussion above relating to distributions is applicable to stock redemptions and repurchases.
Ratification	Under the DGCL, there is a codified ratification process for defective corporate acts. The board of directors must adopt a resolution that, among other things, ratifies the defective corporate act and, if stockholder approval would have been required for the defective corporate act to have been taken, the defective corporate act must be submitted to stockholders for approval (subject to exceptions). In addition to the foregoing, under the DGCL, the corporation, any successor entity to the corporation, any director, or certain stockholders can apply to the Delaware Court for an order determining the validity and effectiveness of defective corporate acts, including without limitation to confirm whether a prior ratification was effective and whether a defective corporate act can be validated even if not previously ratified. In connection with such applications, the Delaware Court has broad discretion to fashion appropriate relief, including without limitation declaring ratifications effective, validating and declaring effective any defective corporate act, and making such other orders regarding such matters as it deems proper under the circumstances.	Under the TBOC, there is a codified ratification process for defective corporate acts. The board of directors must adopt a resolution and then submit the ratified defective corporate act for shareholder approval (shareholder approval is subject to certain exceptions). In the absence of actual fraud in the transaction, the judgment of the board of directors of a Texas corporation that shares of the Texas corporation are valid shares or putative shares is conclusive, unless otherwise determined by a Texas district court or the Texas Business Court.

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Inspection of Books and Records	Under the DGCL, any stockholder may inspect, and make copies and extracts from, a Delaware corporation's books and records during normal business hours for any proper purpose (defined to mean a purpose reasonably related to the stockholder's interest as a stockholder) upon written demand under oath stating if (i) the demand is made in good faith and for a proper purpose, (ii) the demand describes with reasonable particularity the stockholder's purpose and the books and records the stockholder seeks to inspect and (iii) the books and records sought are specifically related to the stockholder's purpose. The DGCL generally defines "books and records" to mean (i) the certificate of incorporation and bylaws (and documents incorporated therein by reference); (2) the annual financial statements for the preceding three years; (3) stockholder meeting minutes, stockholder consents and communications to stockholders generally within the preceding three years; (4) minutes and records of actions of the board of directors or a committee thereof and any materials provided to the board of directors or a committee in connection with actions taken thereby; (5) agreements between the company and one or more current or prospective stockholders (including beneficial owners) entered into under Section 122(18) of the DGCL; and (6) director and officer questionnaires. The DGCL provides that the corporation may impose reasonable restrictions on the confidentiality, use, and distribution of books and records and may require the stockholder to stipulate that any books and records received are deemed incorporated by reference in any follow-on complaint in a plenary action relating to the subject matter of the demand. The corporation may redact portions of any books and records produced to a stockholder to the extent the portions so redacted are not specifically related to the stockholder's purpose. If a Delaware corporation refuses to permit inspection or does not reply to the demand within five business days after the demand	Under the TBOC, a shareholder may inspect a Texas corporation's books and records for a proper purpose during normal business hours upon written demand stating a proper purpose if such shareholder holds at least 5% of the outstanding shares of stock of the Texas corporation or has been a holder of shares for at least six months prior to such demand. Books and records do not include emails, text messages, social media information and similar electronic communications unless such communications effectuate a corporate action. If a Texas corporation refuses to allow a person to examine and make copies of account records, minutes, and share transfer records under the TBOC, the Texas corporation is liable to the shareholder for any cost or expense, including attorney's fees, incurred in enforcing the shareholder's rights under the TBOC. A Texas corporation may defend against an inspection action by establishing that the shareholder: (1) has sold or offered for sale, or has aided or abetted a person in procuring a list of shareholders or of holders of voting trust certificates for the purpose of selling, a list of shareholders or of holders of voting trust certificates for shares of the Texas corporation or any other corporation within the two years preceding the date the action is brought; (2) has improperly used information obtained through prior examination of the books, account records, minutes, or share transfer records of the corporation or any other corporation; or (3) was not acting in good faith or for a proper purpose in making the request. A shareholder request for corporate records is not made for a proper purpose if the corporation reasonably determines that the request relates to an active or pending derivative suit or litigation that is or is expected to be instituted by such shareholder or that involves or is expected to involve the corporation as an adversarial party.

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	has been made, the stockholder may apply to the Delaware Court for an order to compel such inspection. Generally, the stockholder bears the burden of showing that each category of requested records is essential to accomplish the stockholder's stated purpose for the inspection. When a stockholder, however, seeks to inspect a corporation's list of stockholders or stock ledger, the burden of proof is on the corporation to establish that the inspection is for an improper purpose. The Delaware Court may not order inspection of any documents beyond those defined as "books and records" unless either of two exceptions applies. First, if the corporation does not have certain materials defined as "books and records," the Delaware Court may order the production of their functional equivalent only if and to the extent the stockholder has met other requirements of the books and records statute and only to the extent necessary and essential to fulfill the stockholder's proper purpose. Second, the Delaware Court may order production of additional materials only if (i) the stockholder has met other requirements of the books and records statute, (ii) the stockholder made a showing of compelling need for such materials, and (iii) the stockholder has demonstrated by clear and convincing evidence that such materials are necessary and essential to further their proper purpose.	
Insurance	Under the DGCL, a Delaware corporation is allowed to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the DGCL. The DGCL also	Under the TBOC, a Texas enterprise is allowed to purchase or procure or establish and maintain insurance or another arrangement to indemnify or hold harmless an existing or former governing person, delegate, officer, employee, or agent against any liability: (1) asserted against and incurred by the person in that capacity or (2) arising out of the person's status in that capacity. The insurance or other arrangement established may insure or indemnify against the liability described above without regard to whether the enterprise otherwise would have had the power to indemnify the person against that liability under the TBOC. Under the

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	authorizes a Delaware corporation to self-insure its directors, officers, employees or agents through captive insurance, subject to certain requirements and limitations. The DGCL does not prohibit a Delaware corporation from establishing and maintaining arrangements, other than insurance, to protect such persons, including a trust fund or surety arrangement.	TBOC, for the benefit of persons to be indemnified by the enterprise, an enterprise may, in addition to purchasing or procuring or establishing and maintaining insurance or another arrangement: (1) create a trust fund; (2) establish any form of self-insurance, including a contract to indemnify; (3) secure the enterprise's indemnity obligation by grant of a security interest or other lien on the assets of the enterprise; or (4) establish a letter of credit, guaranty, or surety arrangement.
Interested Party Transaction Approvals	Section 144 of the DGCL provides safe harbor procedures for acts or transactions in which one or more directors or officers as well as controlling stockholders and members of control groups have interests or relationships that might render them interested or not independent with respect to the act or transaction. If one of the statutory safe harbors applies, the act or transaction at issue may not be the subject of equitable relief or give rise to an award of damages against a director or officer. Section 144 of the DGCL provides that certain acts or transactions involving interested directors or officers will be protected if the act or transaction is (1) approved or recommended by a majority of the disinterested directors, either serving on a board of directors or a committee of the board of directors acting with knowledge as to the material facts, (2) approved or ratified by an informed, uncoerced, affirmative vote of a majority of the votes cast by the disinterested stockholders entitled to vote thereon, or (3) fair to the corporation. If a majority of the directors are not disinterested directors with respect to the act or transaction, any such disinterested director approval or recommendation must be provided through a disinterested director committee that consists of two or more directors, each of whom the board of directors has determined to be a disinterested director with respect to the act or transaction. Under the DGCL, a controlling stockholder transaction that does not constitute a "going private transaction" would be entitled to the	The TBOC provides that an otherwise valid and enforceable contract or transaction between a corporation and (1) one or more directors or officers, or one or more affiliates or associates of one or more directors or officers, of the corporation; or (2) an entity or other organization in which one or more directors or officers, or one or more affiliates or associates of one or more directors or officers, of the corporation: (A) is a managerial official; or (B) has a financial interest is valid and enforceable, and is not void or voidable, notwithstanding such relationship or interest if any one of the following conditions is satisfied: (1) the material facts as to the applicable relationship or interest and as to the contract or transaction are disclosed to or known by: (A) the corporation's board of directors or a committee of the board of directors, and the board of directors or committee in good faith authorizes the contract or transaction by the approval of the majority of the disinterested directors or committee members, regardless of whether the disinterested directors or committee members constitute a quorum; or (B) the shareholders entitled to vote on the authorization of the contract or transaction, and the contract or transaction is specifically approved in good faith by a vote of the shareholders; or (2) the contract or transaction is fair to the corporation when the contract or transaction is authorized, approved, or ratified by the board of directors, a committee of the board of directors, or the shareholders. The

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	statutory safe harbor protection if it is (1) approved or recommended by a fully empowered committee of disinterested directors acting with knowledge of the material facts, (2) approved or ratified by the informed and uncoerced vote of a majority of the votes cast by the disinterested stockholders entitled to vote thereon, or (3) fair to the corporation. A controlling stockholder transaction that constitutes a "going private transaction" may be entitled to the statutory safe harbor protection if items (1) and (2) of the foregoing sentence are both obtained or the act or transaction is fair to the corporation. For a corporation, like the Company, with a class of equity securities subject to Section 12(g) or 15(d) of the Exchange Act or listed on a national securities exchange, a "going private transaction" means a Rule 13e-3 transaction, as defined in Rule 13e-3(a)(3) promulgated under the Exchange Act. Under the DGCL, a "controlling stockholder" is defined as any person who, together with that person's affiliates and associates, either (i) owns or controls a majority in voting power of the outstanding stock of the corporation entitled to vote generally in the election of directors or in the election of directors who have a majority in voting power of the votes of all directors on the board of directors, (ii) has the right, by contract or otherwise, to cause the election of nominees who are selected at the discretion of such person and who constitute either a majority of the members of the board of directors or directors entitled to cast a majority in voting power of the votes of all directors on the board of directors, or (iii) has the power functionally equivalent to that of a stockholder that owns or controls a majority in voting power of the outstanding stock of the corporation entitled to vote generally in the election of directors by virtue of ownership or control of at least one-third in voting power of the outstanding stock of the corporation entitled to vote generally in the election of directors or for the election of directors who have a majority in voting power of the	TBOC differs from the DGCL's interested party transaction statute in that it does not turn on whether the interested party is a controlling shareholder. It also clarifies that the statutory business judgment rule applies to such transactions.

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	votes of all directors on the board of directors and power to exercise managerial authority over the business and affairs of the corporation. A "control group" is defined under the DGCL to mean two or more persons who are not controlling stockholders who, by virtue of an agreement, arrangement or understanding between or among those persons, constitute a controlling stockholder. A "disinterested director" is defined as a director who is not party to the act or transaction being considered and who does not have a material interest in that act or transaction or a material relationship with a person that has a material interest in the act or transaction. A "material relationship" is defined as a familial, financial, professional, employment or other relationship that would be reasonably expected to impair the objectivity of the director's judgment when participating in the negotiation, authorization or approval of the act or transaction at issue. A "material interest" is defined as an actual or potential benefit, including the avoidance of a detriment, other than one which would devolve on the corporation or the stockholders generally, that (i) in the case of a director, would reasonably be expected to impair the objectivity of the director's judgment when participating in the negotiation, authorization or approval of the act or transaction at issue and (ii) in the case of a stockholder or any other person (other than a director), would be material to such stockholder or such other person. In addition, under the DGCL, any director of a corporation that has a class of stock listed on a national securities exchange is presumed to be a disinterested director with respect to an act or transaction to which that director is not a party if the board of directors has determined that the director satisfies the relevant criteria for determining director independence from the corporation and, if applicable, the controlling stockholder or control group, under any rules promulgated by the applicable exchange. This presumption may only be rebutted by substantial and	

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	particularized facts that the director has a material interest in the act or transaction or has a material relationship with a person with a material interest in the act or transaction.	
Limitation of Liability of Stockholders	Under the DGCL, unless the certificate of incorporation otherwise provides, the stockholders of a corporation shall not be personally liable for the payment of the corporation's debts except as they may be liable by reason of their own conduct or acts. Delaware law permits stockholders to be liable under the doctrine of veil piercing, which allows the court to apply a multi-factor test to determine whether to hold a stockholder liable for obligations of a corporation.	A shareholder is not liable to the corporation or its creditors for: (1) the shares, other than the obligation to pay to the corporation the full amount of consideration; (2) the corporation's contractual obligations based on an alter ego theory, a theory of fraud, or other similar theories; or (3) the corporation's obligations due to a failure to follow corporate formalities required by the TBOC or the corporation's governing documents. Notwithstanding the foregoing, a shareholder may be liable to a creditor of the corporation if: (1) the shareholder used or caused the corporation to commit actual fraud primarily for the shareholder's direct personal benefit; (2) the shareholder expressly assumes, guarantees, or agrees to be personally liable; or (3) the TBOC or another applicable statute imposes liability on the shareholder.
Limitation of Personal Liability of Directors and Officers and Controlling Stockholders	Under the DGCL, a Delaware corporation is permitted to adopt a provision in its certificate of incorporation eliminating or limiting the personal liability of a director or officer to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, provided that such provision does not eliminate or limit the liability of: (i) a director or officer breaching the duty of loyalty to the corporation or its stockholders; (ii) a director or officer failing to act in good faith, engaging in intentional misconduct or a knowing violation of law; (iii) a director declaring an illegal dividend or approving an illegal stock purchase or redemption; (iv) a director or officer obtaining an improper personal benefit from the corporation; or (v) an officer in any action by or in the right of a Delaware corporation. The DGCL further provides that controlling stockholders and control groups, in their capacity as such, cannot be liable for	Under the TBOC, a Texas corporation is permitted to provide that a director or officer is not liable, or is liable only to the extent provided by the certificate of formation, to the corporation or its shareholders for monetary damages for an act or omission by the person in the person's capacity as a director or officer. The TBOC does not, however, permit any limitation of the liability of a director or officer for: (i) a breach of the duty of loyalty to the corporation or its shareholders; (ii) an act or omission not in good faith that constitutes a breach of duty of the person to the corporation or involves intentional misconduct or a knowing violation of law; (iii) a transaction from which the director or officer obtains an improper benefit, regardless of whether the benefit resulted from an action taken within the scope of the person's duties; or (iv) an act or omission for which the liability of a director or officer is expressly provided by an applicable statute (such as wrongful

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	monetary damages for breach of the fiduciary duty of care.	distributions). Further, corporations and their shareholders will not have a cause of action against a director or officer of the corporation as a result of any act or failure to act, unless: (1) the presumption of the business judgment rule is rebutted; (2) the director's or officer's act or failure to act constituted a breach of a fiduciary duty; and (3) such breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law. This standard governs director and officer liability in all circumstances.
Considerations by Directors Permitted by Statute	Under the DGCL, except for corporations that have opted to become public benefit corporations, directors of Delaware corporations do not have any express statutory authority to consider constituencies beyond stockholders when discharging their fiduciary duties. Delaware case law provides that fiduciary duties generally require directors to seek to maximize the value of the corporation for the long-term benefit of the stockholders and that directors can consider the interests of other constituencies so long as doing so serves the ultimate goal of value maximization.	Under the TBOC, in discharging the duties of a director and in considering the best interests of the corporation, a director is entitled to consider the long-term and short-term interests of the corporation and the shareholders of the corporation, including the possibility that those interests may be best served by the continued independence of the corporation. In discharging the duties of a director or officer under the TBOC or otherwise, a director or officer of a corporation is entitled to consider any social purpose specified in the corporation's certificate of formation. In addition, the TBOC provides that nothing in the applicable section thereof prohibits or limits a director or officer of a corporation that does not have a social purpose specified as a purpose in the corporation's certificate of formation from considering, approving, or taking an action that promotes or has the effect of promoting a social, charitable, or environmental purpose. Texas also has a public benefit corporation statute.
Indemnification of Directors and Officers	Under the DGCL, a Delaware corporation is permitted to indemnify any person who is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with any	Under the TBOC, a Texas corporation is permitted to indemnify a director, former director, or delegate who was, is, or is threatened to be made a respondent in a proceeding, against (i) judgments and (ii) expenses (other than a judgment) reasonably and actually incurred by the person in connection with a proceeding if the person: (a) acted in good faith; (b) reasonably believed, in the case of conduct in the person's official capacity, that the person's conduct was in the

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	threatened, pending or completed action, suit or proceeding, other than an action by or in the right of the corporation, to which such director, officer, employee or agent may be a party or threatened to be made a party, provided such person acted in good faith and in a manner the person reasonably believed was in or not opposed to the best interests of the corporation, and in the case of a criminal proceeding, that he or she had no reasonable cause to believe his or her conduct was unlawful. In connection with any threatened, pending or completed action by or in the right of the corporation involving a person who is or was a director, officer, employee or agent, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, a Delaware corporation has the power to indemnify such a person who is a party or is threatened to be made a party for expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit: (i) if such person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation; and (ii) if such person is found liable to the corporation, only to the extent the Court of Chancery or the court in which such action or suit was brought determined that in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper. This is not exclusive of any other indemnification rights, which may be granted by a Delaware corporation to its directors, officers, employees or agents.	corporation's best interests, and in any other case, that the person's conduct was not opposed to the corporation's best interests; and (c) in the case of a criminal proceeding, did not have a reasonable cause to believe the person's conduct was unlawful. In addition, the TBOC permits indemnification of other persons as described in the section entitled "Persons Covered" below. If, however, the person is found liable to a Texas corporation, or is found liable on the basis that he or she received an improper personal benefit, then indemnification under the TBOC is limited to the reimbursement of reasonable expenses actually incurred in connection with the proceeding, and which excludes a judgment, a penalty, a fine, and an excise or similar tax, including an excise tax assessed against the person with respect to an employee benefit plan. Furthermore, no indemnification will be available if the person is found liable for: (i) willful or intentional misconduct in the performance of the person's duty to the corporation; (ii) breach of the person's duty of loyalty owed to the corporation; or (iii) an act or omission not committed in good faith that constitutes a breach of a duty owed by the person to the corporation.
Advancement of Expenses	Under the DGCL, expenses (including attorneys' fees) incurred by a current or former officer or director of the corporation in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the corporation in advance of the final	Under the TBOC, a corporation may pay or reimburse reasonable expenses incurred by a present director or officer who was, is, or is threatened to be made a respondent in a proceeding in advance of the final disposition of the proceeding without making the determinations required for

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	disposition of such action, suit or proceeding; provided that, in the case of a current director or officer, any such advancement shall be conditioned upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in Section 145 of the DGCL.	permissive indemnification after the corporation receives: (1) a written affirmation by the person of the person's good faith belief that the person has met the standard of conduct necessary for indemnification; and (2) a written undertaking by or on behalf of the person to repay the amount paid or reimbursed if the final determination is that the person has not met that standard or that indemnification is prohibited by the TBOC.
Procedure for Indemnification	Under the DGCL, a determination that indemnification of a current director or officer is appropriate generally must be made: (i) by a majority vote of directors who are not party to the proceeding, even though less than a quorum; (ii) by a committee of such directors designated by majority vote of such directors, even though less than a quorum; (iii) if there are no such directors or if such directors so direct, by independent legal counsel in a written opinion; or (iv) by the stockholders.	Under the TBOC, a determination that indemnification is appropriate generally must be made: (i) by a majority vote of the directors who, at the time of the vote, are disinterested and independent, regardless of whether such directors constitute a quorum; (ii) by a majority vote of a special committee of the board of directors if the committee is designated by a majority vote of the directors who at the time of the vote are disinterested and independent, regardless of whether such directors constitute a quorum, and is composed solely of one or more directors who are disinterested and independent; (iii) by special legal counsel selected by majority vote under (i) or (ii) above; (iv) by the shareholders in a vote that excludes those shares held by directors who, at the time of the vote, are not disinterested and independent; or (v) by a unanimous vote of the shareholders of the corporation.
Mandatory Indemnification	The DGCL requires a Delaware corporation to indemnify current directors and certain officers against expenses (including attorneys' fees) actually and reasonably incurred in successfully defending, on the merits or otherwise, against any action, suit or proceeding described above, or any claim, issue or matter therein.	The TBOC requires indemnification for reasonable expenses actually incurred only if the director is wholly successful on the merits or otherwise, in the defense of the proceeding.
Persons Covered	Under the DGCL, directors and officers, but not employees, agents, or others, are entitled to mandatory indemnification for expenses incurred when successful on the merits or otherwise in defense of litigation. Other than in that instance, the DGCL authorizes a Delaware corporation to	Under the TBOC, a corporation may indemnify and advance expenses to a person who is not a director, including an officer, employee or agent, as provided by: (1) the corporation's governing documents; (2) general or specific action of the corporation's board of directors;

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	provide the same indemnification rights to directors, officers, employees, agents of the corporation, and those serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.	(3) resolution of the shareholders; (4) contract; or (5) common law. A corporation must indemnify an officer to the same extent that indemnification is required under the TBOC for a director. A determination of indemnification for a person who is not a director of a corporation, including an officer, employee, or agent, is not required to be made in accordance with the procedures set out in the relevant sections of the TBOC.
Rights Plans	The DGCL does not expressly address stockholder rights plans, but stockholder rights plans have generally been upheld by Delaware courts. Adoption of stockholder rights plans is viewed as a defensive action and is subject to enhanced scrutiny by the Delaware courts, with the burden initially on the board of directors to demonstrate that the adoption of the rights plan is reasonable in response to a reasonably identified threat posed.	Texas case law has generally upheld shareholder rights plans, but indicates that rights plans will be scrutinized for validity at the time of adoption and for continued validity in the face of changing circumstances. In addition, the TBOC expressly permits directors to look to the “longterm” benefit to shareholders in taking action.
Selection of Forum/Venue	Under the DGCL, a Delaware corporation’s certificate of incorporation or bylaws may require, consistent with applicable jurisdictional requirements, that any or all internal corporate claims shall be brought solely and exclusively in any or all of the courts in Delaware, and no provision of a Delaware corporation’s certificate of incorporation or bylaws may prohibit bringing such claims in the courts of Delaware. “Internal corporate claims” means claims, including claims in the right of the corporation, (i) that are based upon a violation of a duty by a current or former director or officer or stockholder in such capacity; or (ii) as to which the DGCL confers jurisdiction upon the Delaware Court. With respect to claims that are not internal corporate claims, a Delaware corporation’s certificate of incorporation or bylaws may require stockholders, when acting in their capacity as stockholders or in the right of the corporation, to bring any or all such claims only in one or more prescribed forums or venues, if such claims relate to the business of the corporation, the conduct of its affairs, or the rights or powers of the corporation or its stockholders, directors or officers; provided	Under the TBOC, the governing documents of a Texas entity may require, consistent with applicable state and federal jurisdictional requirements, that any internal entity claims shall be brought only in a court in Texas and that one or more courts in Texas having jurisdiction shall serve as the exclusive forum and venue in such disputes. Further, a Texas corporation may include a waiver of jury trial concerning internal entity claims in its governing documents. “Internal entity claim” means a claim of any nature, including a derivative claim in the right of an entity, that is based on, arises from, or relates to the internal affairs of the entity. Internal affairs include the rights, powers, and duties of the entity’s governing persons, officers, owners, and members, and matters relating to the entity’s membership or ownership interests.

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	that such requirement is consistent with applicable jurisdictional requirements and allows a stockholder to bring such claims in at least one court in Delaware that has jurisdiction over such claims.	
Pre-Suit Demand in Derivative Suits	Under Delaware court rules and case law, in order for a stockholder to commence a derivative action on behalf of the corporation, the stockholder must: (1) make a demand on the company's board of directors; or (2) show that demand would be futile. Demand will be deemed futile if at least half the members of the board in receipt of the demand: (1) received a material personal benefit from the alleged misconduct that is the subject of the litigation demand; (2) faces a substantial likelihood of liability on any of the claims that would be the subject of the litigation demand; or (3) lacks independence from someone who received a material personal benefit from the alleged misconduct that would be the subject of the litigation demand or who would face a substantial likelihood of liability on any of the claims that are the subject of the litigation demand. If demand is excused, the board of directors of a Delaware corporation can form an independent special litigation committee to take control of the litigation. If such a committee determines dismissal is appropriate and moves to dismiss the derivative suit, the court will evaluate the independence and good faith of the committee, the reasonableness of its investigation into the subject of the demand, and the proffered reasons for dismissing the demand. The court will then apply its own judgment to determine whether the dismissal was in fact in the best interests of the corporation. If a demand is received and the board or a board committee refuses to pursue litigation, the business judgment rule applies to the board or committee's decision, and a plaintiff claiming wrongful demand refusal must allege particularized facts that raise a reasonable doubt as to whether the board's determination to refuse the demand was the product of valid business judgment.	Texas is a universal demand jurisdiction. Under the TBOC, the focus is on harm to the corporation rather than the Delaware standard of futility. A shareholder may not institute a derivative proceeding until the 91st day after the date a written demand is filed with the corporation stating with particularity the act, omission, or other matter that is the subject of the claim or challenge and requesting that the corporation take suitable action. The foregoing waiting period is not required or, if applicable, shall terminate if: (1) the shareholder has been notified that the demand has been rejected by the corporation; (2) the corporation is suffering irreparable injury; or (3) irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

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Stock Ownership Requirement for Derivative Suits; Jury Trials	Under the DGCL, subject to limited exceptions, a stockholder may not institute or maintain a derivative suit unless the plaintiff was a stockholder of the corporation at the time of the transaction of which such stockholder complains or that such stockholder's stock thereafter devolved upon such stockholder by operation of law, and the plaintiff maintains such ownership throughout the litigation. The Company understands that certain Delaware corporations have included an ownership threshold for derivative claims in their bylaws; however, the Delaware Courts have not opined on the enforceability of these provisions. Jury trials are generally not available in the Delaware Court of Chancery, which is the Court in which stockholder suits relating to the internal affairs of a Delaware corporation must be filed.	Under the TBOC, a shareholder may not institute or maintain a derivative proceeding unless: (1) the shareholder was a shareholder of the corporation at the time of the transaction in question, or became a shareholder by operation of law originating from a person that was a shareholder at the time of the transaction in question; and (2) the shareholder fairly and adequately represents the interests of the corporation in enforcing the right of the corporation. Further, corporations with common shares listed on a national securities exchange, and corporations that have elected to be governed by Section 21.419 of the TBOC and have 500 or more shareholders, may set an ownership threshold in their governing documents (not to exceed 3% of the outstanding shares) that shareholders must satisfy to bring a derivative claim. Under Texas law, in civil cases, a party generally has a right to a jury trial to determine questions of fact if the party timely demands a jury and pays the jury fee. A corporation may include a waiver of jury trial in its governing documents, and such waiver will constitute an intentional consent to waiver if enforced against a party approving the applicable governing documents or acquiring a security after such governing documents are adopted, continuing to hold a security of a public company after the governing documents are adopted, or by other methods permitted under law.
Dissent and Appraisal Rights	Under the DGCL, a stockholder of a corporation that is a constituent in a merger, consolidation, conversion, domestication, transfer, or continuance may, under certain circumstances, be entitled to appraisal rights pursuant to which the stockholder may receive cash in the fair value of their shares as determined by the Delaware Court of Chancery. Under the DGCL, stockholders have no appraisal rights in the event of a merger, consolidation, conversion, domestication, transfer or continuance if (i) prior to the effective time of the transaction the stock of the corporation is listed on a national	Under the TBOC, except for the limited classes of mergers, consolidations, sales and asset dispositions for which no shareholder approval is required under Texas law, shareholders of Texas corporations with voting rights have dissenters' rights in the event of a merger, consolidation, interest exchange, conversion, sale, lease, exchange or other disposition of all, or substantially all, the property and assets of the corporation. However, a shareholder of a Texas corporation has no dissenters' rights with respect to any plan of merger or conversion in which there is a single surviving or new

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	securities exchange or is held of record by more than 2,000 stockholders, and (ii) in the merger, consolidation conversion, domestication, transfer or continuance they receive solely shares of stock of the surviving corporation or entity or of any other corporation which shares at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 stockholders.	domestic or foreign corporation, or with respect to any plan of exchange if: (1) the ownership interest, or a depository receipt in respect of the ownership interest, held by the owner is part of a class or series of ownership interests, or depository receipts in respect of ownership interests, that are, on the record date set for purposes of determining which owners are entitled to vote on the plan of merger, conversion, or exchange, as appropriate: (A) listed on a national securities exchange; or (B) held of record by at least 2,000 owners; (2) the owner is not required by the terms of the plan of merger, conversion, or exchange, as appropriate, to accept for the owner's ownership interest any consideration that is different from the consideration to be provided to any other holder of an ownership interest of the same class or series as the ownership interest held by the owner, other than cash instead of fractional shares or interests the owner would otherwise be entitled to receive; and (3) the owner is not required by the terms of the plan of merger, conversion, or exchange, as appropriate, to accept for the owner's ownership interest any consideration other than: (A) ownership interests, or depository receipts in respect of ownership interests, of another entity of the same general organizational type that, immediately after the effective date of the merger, conversion, or exchange, as appropriate, will be part of a class or series of ownership interests, or depository receipts in respect of ownership interests, that are: (i) listed on a national securities exchange or authorized for listing on the exchange on official notice of issuance; or (ii) held of record by at least 2,000 owners; (B) cash instead of fractional ownership interests the owner would otherwise be entitled to receive; or (C) any combination of the ownership interests and cash above. Under the TBOC, an owner of an ownership interest in a Texas domestic entity subject to dissenters' rights is entitled to dissent from an amendment to a Texas for-profit corporation's certificate of formation to add required provisions to elect to be a

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		public benefit corporation or delete required provisions, which in effect cancels the corporation's election to be a public benefit corporation if the owner owns shares that were entitled to vote on the amendment; except if the shares held by the owner are part of a class or series of shares listed on a national securities exchange or held of record by at least 2,000 owners.
Independence of Corporate Code	Delaware does not have an applicable statute.	The TBOC provides that the plain meaning of its terms may not be supplanted, contravened, or modified by the laws or judicial decisions of any other jurisdiction; however, an officer or director is not in breach of their duties if they consider other jurisdictions.
Judicial Certification of Committees and Panels	Delaware does not have an applicable statute.	A corporation may request that a court, at the start of a transaction or investigation of a derivative claim, judicially certify the independence and disinterestedness of directors on special committees reviewing transactions or individuals on panels reviewing derivative claims. Future challenges to independence or disinterestedness would require new facts.
Regulation of Proxy Advisors	Delaware does not have an applicable statute.	A proxy advisor that makes a voting recommendation concerning the shares of a Texas corporation, or a corporation headquartered in Texas, must either make such recommendation solely in the financial interests of shareholders or disclose the non-financial factors that subordinate shareholder financial interest.
Threshold for Stockholder Proposals	Delaware does not have an applicable statute.	Under the TBOC, a "nationally listed corporation" (a corporation with a class of equity securities registered under the Exchange Act, admitted to listing on a national securities exchange, and either having its principal office in Texas or listed on a Texas-approved exchange) may adopt in its certificate of formation or bylaws an ownership threshold for shareholder proposals. If a corporation elects to be governed by this provision, a shareholder or group of shareholders may submit a proposal only if they hold an amount of shares equal to at least $1 million in market value or 3% of the total voting shares, have held such amount for a continuous period

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		of at least six months before the date of the meeting, hold such amount throughout the meeting, and solicit the holders of shares representing at least 67% of the voting power of shares entitled to vote on the proposal. The Texas Charter and the Texas Bylaws do not opt into the TBOC's stock ownership threshold for shareholder proposals.

Certain Matters That Will Not Change After Reincorporation

Apart from being governed by the Texas Charter, Texas Bylaws and the TBOC, upon completion of the Reincorporation, the Company will continue to exist, without interruption, in the form of a Texas corporation. By virtue of the Reincorporation, all of the rights, privileges and powers of the Company, and all property, real, personal and mixed, and all debts due to the Company, as well as all other things and causes of action belonging to the Company, will remain vested in the Texas Corporation and will be the property of the Texas Corporation. In addition, the Texas Corporation will have all debts, liabilities and duties of the Company and the same may be enforced against the Texas Corporation.

No Change in Business, Jobs or Physical Location

The Reincorporation will not result in any change in business, jobs, management, properties, location of any of our offices or facilities, number of employees, obligations, assets, liabilities, net worth (other than as a result of the costs related to the Reincorporation), or state of incorporation or organization of any subsidiary of the Company, including Viant LLC.

Our management, including all directors and officers and the positions they respectively hold, will be unchanged as a result of the Reincorporation. To the extent that the Reincorporation will require the consent or waiver of a third party, the Company will use commercially reasonable efforts to obtain such consent or waiver before completing the Reincorporation. The Company does not expect that any such required consent will impede its ability to reincorporate to Texas. The Reincorporation will not otherwise adversely affect any of the Company's material contracts with any third parties, and the Company's rights and obligations under such material contractual arrangements will continue as rights and obligations of the Texas Corporation.

Up-C Structure

The Company is a holding company, and its principal asset is its ownership of LLC Units of Viant LLC. The Company is the sole managing member of Viant LLC. The Reincorporation will not result in any change to the Company's "Up-C" structure. Following the Reincorporation, the Texas Corporation will continue to be the sole managing member of Viant LLC, and the Second Amended and Restated Limited Liability Company Agreement of Viant LLC (the "LLC Agreement") will continue in effect in accordance with its terms.

Shares of Class B Common Stock have no economic rights and are issued only to the extent necessary to maintain a one-to-one ratio between the number of LLC Units held by the holders of LLC Units (other than the Company) and the number of shares of Class B Common Stock held by such holders. Each share of Class A Common Stock entitles its holder to one vote per share, and each share of Class B Common Stock entitles its holder to one vote per share. Under the LLC Agreement, holders of LLC Units (other than the Company) may exchange their LLC Units, together with a corresponding number of shares of Class B Common Stock, for shares of Class A Common Stock on a one-for-one basis (or, at the election of the Company, cash), and upon any such

exchange the corresponding shares of Class B Common Stock will be cancelled. Following the Reincorporation, the LLC Units, together with a corresponding number of shares of Class B common stock of the Texas Corporation, will be exchangeable for shares of Class A common stock of the Texas Corporation on the same terms. The Texas Charter provides for the same terms and conditions with respect to the Class A common stock and Class B common stock of the Texas Corporation as are set forth in the Delaware Charter, including the circumstances in which shares of Class B common stock will be exchanged or cancelled.

The Reincorporation will not result in any change to the Tax Receivable Agreement or the Registration Rights Agreement, each of which will continue in effect in accordance with its terms.

No Securities Law Consequences

We will continue to be a publicly held company following completion of the Reincorporation, and our Class A Common Stock will continue to be listed on The Nasdaq Global Select Market and traded under the symbol "DSP." The Company will continue to file required periodic reports and other documents with the SEC. There is not expected to be any interruption in the trading of the Class A Common Stock as a result of the Reincorporation. We and our stockholders will be in the same respective positions under the federal securities laws after the Reincorporation as we and our stockholders were prior to the Reincorporation.

No Exchange of Stock Certificates Required

Stockholders will not have to exchange their existing stock certificates for new stock certificates. At the Effective Time, each outstanding share of the Company's Class A Common Stock or Class B Common Stock will automatically be converted into one share of the Texas Corporation's Class A common stock or Class B common stock, as applicable, and any stock certificates or book-entry entitlements you then hold will represent the same number of shares of the Texas Corporation as they represented of the Company immediately prior to the Effective Time.

No Material Accounting Implications

Effecting the Reincorporation will not have any material accounting implications.

Anti-Takeover Implications of the Reincorporation

The Reincorporation is not being effected to prevent a sale of the Company, nor is it in response to any present attempt known to the Board of Directors to acquire control of the Company or obtain representation on the Board of Directors. Moreover, as of the Record Date, the Vanderhook Parties, collectively, are able to exercise voting rights with respect to a majority of the voting power of the Company's outstanding capital stock, and accordingly have the ability to discourage, delay, or prevent any attempt to acquire control of the Company. Nevertheless, certain effects of the Reincorporation may be considered to have anti-takeover implications by virtue of the Company being subject to Texas law.

A hostile takeover attempt may have a positive or negative effect on the Company and its stockholders, depending on the circumstances surrounding a particular takeover attempt. Takeover attempts that have not been negotiated or approved by the Board of Directors can be opportunistically timed to take advantage of an artificially depressed stock price. Takeover attempts can also be coercively structured, can disrupt the business and management of a corporation and can generally present a risk of terms that may be less favorable than would be available in a board-approved transaction. In contrast, transactions approved by the Board of Directors may be carefully planned and undertaken at an opportune time in order to obtain maximum value for the Company and all of its stockholders by determining and pursuing the best strategic alternative, obtaining negotiating leverage to achieve the best terms available, and giving due consideration to matters such as tax planning, the management and business of the acquiring corporation and the most effective deployment of corporate assets. The Board of

Directors believes that the potential disadvantages of unapproved takeover attempts are sufficiently great that prudent measures are needed to give the Board of Directors the time and flexibility to determine and pursue potentially superior strategic alternatives and take other appropriate action in an effort to maximize stockholder value.

Delaware law and the Delaware Charter and Delaware Bylaws contain provisions that may have the effect of deterring hostile takeover attempts. Texas law includes some additional features that may deter hostile takeover attempts. Texas law prevents a board of directors from filling more than two vacancies caused by an increase in the size of the board of directors between any two annual meetings of shareholders. Another potential area of difference involves cash-out transactions and "Revlon duties." Texas law allows directors to take into account "the long-term and short-term interests of the corporation and the shareholders of the corporation, including the possibility that those interests may be best served by the continued independence of the corporation." Similarly, under Delaware law, the decision whether to sell the company or "just say no" is a business judgment for the board of directors in which they can take into account the corporation's long-term interests. But once the board of directors determines to pursue a change of control transaction, Delaware law requires the directors to act reasonably to obtain the best price available.

The Board of Directors may in the future propose other measures designed to address hostile takeovers apart from those discussed in this Information Statement, if warranted from time to time in the judgment of the Board of Directors.

Certain Federal Income Tax Consequences

The Reincorporation is intended to be a tax-free reorganization under Section 368(a)(1)(F) of the U.S. Internal Revenue Code of 1986, as amended ("Code"). Accordingly, we expect that, for U.S. federal income tax purposes, no gain or loss will be recognized by the Company, the Texas Corporation or the stockholders of the Company who receive Class A common stock and/or Class B common stock of the Texas Corporation (the "Texas common stock") for their Class A Common Stock and/or Class B Common Stock of the Company (the "Delaware common stock") in connection with the Reincorporation. The aggregate tax basis of the Texas common stock received by a stockholder of the Company as a result of the Reincorporation will be the same as the aggregate tax basis of the Delaware common stock converted into that Texas common stock held by that stockholder as a capital asset at the time of the Reincorporation. Each stockholder's holding period of shares of Texas common stock received in the Reincorporation will include the holding period of the shares of Delaware common stock converted into those shares of Texas common stock, provided the shares are held by such stockholder as a capital asset at the time of the Reincorporation.

This Information Statement only discusses U.S. federal income tax consequences and has done so only for general information. It does not address all of the U.S. federal income tax consequences that may be relevant to particular stockholders based upon individual circumstances or to stockholders who are subject to special rules, such as financial institutions, tax-exempt organizations, insurance companies, dealers in securities, stockholders who hold their stock through a partnership or as part of a straddle or other derivative arrangement, foreign holders or holders who acquired their shares as compensation, whether through employee stock options or otherwise. This Information Statement does not address the tax consequences under any state, local or foreign laws. State, local or foreign income tax consequences to stockholders may vary from the U.S. federal income tax consequences described above, and stockholders are urged to consult their own tax advisors as to the consequences to them of the Reincorporation under all applicable tax laws.

This discussion is based on the Code, applicable Treasury Regulations, judicial authority and administrative rulings and practice, all in effect as of the date of this Information Statement, all of which are subject to change or different interpretations, possibly with retroactive effect. The Company has neither requested nor received, and does not intend to request, a ruling from the Internal Revenue Service regarding the consequences of the Reincorporation. There can be no assurance that future legislation, regulations, administrative rulings or court decisions would not alter the consequences discussed above.

You should consult your own tax advisor to determine the particular tax consequences to you of the Reincorporation, including the applicability and effect of U.S. federal, state, local, foreign and other tax laws.

Class A Stockholder Appraisal Rights

HOLDERS OF OUR CLASS A COMMON STOCK ARE NOT ENTITLED TO APPRAISAL RIGHTS WITH RESPECT TO THE REINCORPORATION DESCRIBED IN THIS INFORMATION STATEMENT.

Class B Stockholder Appraisal Rights

If the Reincorporation is completed, holders of record and beneficial owners of our Class B Common Stock who (1) did not consent to or otherwise vote in favor of the Reincorporation; (2) properly demand appraisal of their shares; (3) continuously hold of record or beneficially own their shares through the Effective Time; (4) otherwise comply with the procedures of Section 262 of the DGCL ("Section 262"); and (5) do not withdraw their demands or otherwise lose their rights to appraisal may seek appraisal of their shares in connection with the Reincorporation under Section 262. Unless the context requires otherwise, all references in Section 262 and in this summary to a "stockholder" are to a record holder of the Company's Class B Common Stock, all references in Section 262 and in this summary to "beneficial owner" mean a person who is the beneficial owner of shares of the Company's Class B Common Stock held either in voting trust or by a nominee on behalf of such person, and all references in Section 262 and in this summary to the word "person" mean any individual, corporation, partnership, unincorporated association or other entity.

The following discussion is not a complete statement of the law pertaining to appraisal rights under the DGCL and is qualified in its entirety by the full text of Section 262, which is available at the following URL, accessible without subscription or cost, which is incorporated herein by reference: https://delcode.delaware.gov/title8/c001/sc09/index.html#262. The following summary does not constitute any legal or other advice and does not constitute a recommendation that record holders (or beneficial owners) of our Class B Common Stock exercise their appraisal rights under Section 262.

RECORD HOLDERS (AND BENEFICIAL OWNERS) OF OUR CLASS B COMMON STOCK SHOULD CAREFULLY REVIEW THE FULL TEXT OF SECTION 262 AS WELL AS THE INFORMATION DISCUSSED BELOW.

Under Section 262, if the Reincorporation is completed, holders of record and beneficial owners of our Class B Common Stock who (1) deliver a written demand for appraisal of such person's shares of our Class B Common Stock to us within 20 days after the date of this Information Statement; (2) did not consent to or otherwise vote in favor of the Reincorporation; (3) continuously hold of record or beneficially own such shares on the date of making the demand for appraisal through the Effective Time; and (4) otherwise comply with the procedures set forth in Section 262 may be entitled to have their shares of our Class B Common Stock appraised by the Delaware Court of Chancery and to receive payment in cash, in lieu of the shares of the Class B common stock of the Texas Corporation set forth in the Plan of Conversion, for the "fair value" of their shares of our Class B Common Stock, exclusive of any element of value arising from the accomplishment or expectation of the Reincorporation, together with (unless the Delaware Court of Chancery in its discretion determines otherwise for good cause shown) interest, if any, on the amount determined by the Delaware Court of Chancery to be the fair value from the Effective Time through the date of payment of the judgment (or in certain circumstances described herein, on the difference between the amount determined to be the fair value and the amount paid by the converted corporation in the Reincorporation to each person entitled to appraisal prior to the entry of judgment in the appraisal proceeding) as described further below.

Unless the Delaware Court of Chancery, in its discretion, determines otherwise for good cause shown, interest on the amount determined to be the fair value of the shares subject to appraisal will accrue and compound quarterly

from the Effective Time through the date the judgment is paid at 5% over the Federal Reserve discount rate (including any surcharge) as established from time to time during such period (except that, if at any time before the entry of judgment in the proceeding, the converted corporation makes a voluntary cash payment to each person entitled to appraisal, interest will accrue thereafter only upon the sum of (x) the difference, if any, between the amount so paid and the fair value of the shares as determined by the Delaware Court of Chancery and (y) interest theretofore accrued, unless paid at that time). The converted corporation is under no obligation to make such voluntary cash payment prior to such entry of judgment.

Under Section 262, when a conversion is approved by written consent without a meeting pursuant to Section 228 of the DGCL, as is the case with the Reincorporation, Section 262 requires that either the converting corporation before the effective date of the conversion, or the converted entity within 10 days after such effective date, notify each stockholder of the converting corporation who is entitled to appraisal rights of the approval of the conversion that appraisal rights are available and include in such notice either a copy of Section 262 or information directing the stockholder to a publicly available electronic resource at which Section 262 may be accessed without subscription or cost. This Information Statement constitutes our notice to the holders of record and beneficial owners of our Class B Common Stock of the approval of the Reincorporation and that appraisal rights are available in connection therewith, and the full text of Section 262 is available at the following URL: https://delcode.delaware.gov/title8/c001/sc09/index.html#262, which may be accessed without subscription or cost. Because this Information Statement does not notify stockholders of the effective date of the Reincorporation, then either (i) the converting corporation shall send a second notice before the Effective Time notifying each of the holders of Class B Common Stock that are entitled to appraisal rights of the effective date of the Reincorporation or (ii) the converted corporation shall send such a second notice to all such holders on or within 10 days after such effective date; provided, however, that if such second notice is sent more than 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in accordance with Section 262 and any beneficial owner who has demanded appraisal under subsection (d)(3) of Section 262.

In connection with the Reincorporation, any holder of record or beneficial owner of shares of our Class B Common Stock who wishes to exercise appraisal rights, or who wishes to preserve such person's right to do so, should review Section 262 carefully. Failure to strictly comply with the requirements of Section 262 in a timely and proper manner may result in the loss of appraisal rights under the DGCL. A person who loses appraisal rights will be entitled to receive the Class B common stock of the Texas Corporation described in the Plan of Conversion. Because of the complexity of the procedures for exercising the right to seek appraisal of shares of our Class B Common Stock, we believe that if a person is considering exercising such rights, such person should seek the advice of legal counsel.

Class B stockholders wishing to exercise the right to seek an appraisal of their shares of our Class B Common Stock must do ALL of the following:

- such person must not consent to or otherwise vote in favor of the Reincorporation;
- such person must deliver to us a written demand for appraisal within 20 days after the date of this Information Statement; and
- such person must continuously hold of record the shares of our Class B Common Stock from the date of making the demand through the Effective Time (a person will lose appraisal rights if the person transfers the shares before the Effective Time).

A beneficial owner of our Class B Common Stock may, in such person's name, demand in writing an appraisal of such beneficial owner's shares in accordance with the procedures of subsection (d)(2) of Section 262 summarized above, provided that (i) such beneficial owner continuously owns such shares through the Effective Time and otherwise satisfies the requirements applicable to a stockholder under the first sentence of subsection (a) of Section 262 and (ii) the demand made by such beneficial owner reasonably identifies the holder of record of the shares for which the demand is made, is accompanied by documentary evidence of such beneficial owner's

beneficial ownership of stock and a statement that such documentary evidence is a true and correct copy of what it purports to be, and provides an address at which such beneficial owner consents to receive notices given by the surviving, resulting or converted entity hereunder and to be set forth on the verified list required by Section 262(f).

Filing Written Demand

A person wishing to exercise appraisal rights must deliver to us, within 20 days after the date of this Information Statement, a written demand for the appraisal of such person's shares. In addition, that person must not consent to or otherwise vote in favor of the Reincorporation. A person exercising appraisal rights must own or hold, as applicable, beneficially or of record, the shares on the date the written demand for appraisal is delivered and must continue to hold or own, as applicable, the shares through the Effective Time. Neither withholding consent nor abstaining from voting or failing to vote with respect to the approval of the Reincorporation will, in and of itself, constitute a written demand for appraisal satisfying the requirements of Section 262. A person's failure to make the written demand within 20 days after the date of this Information Statement will constitute a waiver of appraisal rights.

In the case of a written demand for appraisal made by a stockholder of record, the demand must reasonably inform us of the identity of the stockholder and that the stockholder intends thereby to demand an appraisal of such stockholder's shares of Class B Common Stock. If a stockholder of record is submitting a demand with respect to shares owned of record in a fiduciary or representative capacity, such as by a trustee, guardian or custodian, such demand must be executed by or on behalf of the record owner in such capacity, and if the shares are owned of record by more than one person, as in a joint tenancy and tenancy in common, the demand should be executed by or on behalf of all joint owners. An authorized agent, including an authorized agent for two or more joint owners, may execute a demand for appraisal on behalf of a stockholder of record; however, the agent must identify the record owner or owners and expressly disclose that, in executing the demand, the agent is acting as agent for the record owner or owners. A stockholder of record, such as a brokerage firm, bank, trust or other nominee, who holds shares of Class B Common Stock as nominee or intermediary for one or more beneficial owners may exercise appraisal rights with respect to shares of Class B Common Stock held for one or more beneficial owners while not exercising appraisal rights for other beneficial owners. In that case, the written demand should state the number of shares of Class B Common Stock as to which appraisal is sought. Where no number of shares of Class B Common Stock is expressly mentioned, the demand will be presumed to cover all shares of Class B Common Stock held in the name of the stockholder of record.

In the case of a written demand for appraisal made by a beneficial owner in such person's own name, the demand must reasonably identify the record holder of the shares for which the demand is made, be accompanied by documentary evidence of such beneficial owner's beneficial ownership of such stock and a statement that such documentary evidence is a true and correct copy of what it purports to be and provide an address at which such beneficial owner consents to receive notices given by the converted corporation and to be set forth on the verified list (as defined below).

All written demands for appraisal pursuant to Section 262 should be mailed or delivered to:

Viant Technology Inc.
2722 Michelson Drive, Suite 100
Irvine, California 92612
Attention: Corporate Secretary

At any time within 60 days after the Effective Time, any person entitled to appraisal rights who has not commenced an appraisal proceeding or joined that proceeding as a named party may withdraw such person's demand for appraisal with respect to some or all of such person's shares and accept the terms offered pursuant to the Reincorporation, by delivering to us, as the converted corporation, a written withdrawal of the demand for appraisal. Any withdrawal of a demand for appraisal made more than 60 days after the Effective Time may only

be made with the written approval of the converted corporation. Notwithstanding the foregoing, no appraisal proceeding in the Delaware Court of Chancery will be dismissed as to any person without the approval of the Delaware Court of Chancery, and such approval may be conditioned upon such terms as the Delaware Court of Chancery deems just, including, without limitation, a reservation of jurisdiction (which we refer to as a "reservation") for any application (as defined below) to the Delaware Court of Chancery; provided, however, that this shall not affect the right of any person who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such person's demand for appraisal and to accept the terms offered in the Reincorporation within 60 days after the Effective Time. If the proceedings are not dismissed, the appraisal proceeding shall be conducted in accordance with the rules of the Delaware Court of Chancery, including any rules specifically governing appraisal proceedings. Through such proceeding, the Delaware Court shall determine the fair value of the shares of the Class B Common Stock exclusive of any element of value arising from the accomplishment or expectation of the Reincorporation, together with interest, if any, to be paid upon the amount determined to be the fair value. The fair value determined in any such appraisal proceeding could be less than, equal to or more than the value of the Class B common stock of the Texas Corporation being offered pursuant to the Plan of Conversion.

Filing a Petition for Appraisal

Within 120 days after the Effective Time, but not thereafter, the converted corporation or any person who has complied with Section 262 and is otherwise entitled to appraisal rights under Section 262 may commence an appraisal proceeding by filing a petition in the Delaware Court of Chancery, with a copy served on the converted corporation in the case of a petition filed by any person other than the converted corporation, demanding a determination of the fair value of the shares of Class B Common Stock held by all dissenting stockholders. The converted corporation is under no obligation, and has no present intention, to file a petition, and stockholders and beneficial owners should not assume that the converted corporation will file a petition or initiate any negotiations with respect to the fair value of the shares of our Class B Common Stock. Accordingly, any persons who desire to have their shares of our Class B Common Stock appraised should initiate all necessary action to perfect their appraisal rights in respect of their shares of our Class B Common Stock within the time and in the manner prescribed in Section 262. The failure to file such a petition within the period specified in Section 262 could result in the loss of appraisal rights.

Within 120 days after the Effective Time, any person who has complied with the requirements for an appraisal of such person's shares pursuant to Section 262 will be entitled, upon written request, to receive from the converted corporation a statement setting forth the aggregate number of shares not voted in favor of the approval of the Reincorporation and with respect to which we have received demands for appraisal, and the aggregate number of stockholders or beneficial owners holding or owning such shares (provided that, where a beneficial owner makes a demand for appraisal on such person's own behalf, the record holder of such shares shall not be considered a separate stockholder holding such shares for purposes of this aggregate number). Such statement must be given within 10 days after receipt by the converted corporation of the written request for such a statement or within 10 days after the expiration of the period for delivery of demands for appraisal, whichever is later.

If a petition for an appraisal is duly filed by a stockholder or beneficial owner of Class B Common Stock, service of a copy thereof must be made upon the converted corporation, which will then be obligated within 20 days after such service to file with the Delaware Register in Chancery a duly verified list (which we refer to as the "verified list") containing the names and addresses of all persons who have demanded appraisal for their shares and with whom agreements as to the value of their shares have not been reached. The Delaware Court of Chancery may order the Register in Chancery to give notice of the time and place fixed for the hearing on such petition to the converted corporation and all of the persons shown on the verified list at the addresses stated therein. The costs of any such notice are borne by the converted corporation.

After notice is provided to the applicable persons as required by the Delaware Court of Chancery, at the hearing on such petition, the Delaware Court of Chancery will determine the persons who have complied with

Section 262 and who have become entitled to appraisal rights thereunder. The Delaware Court of Chancery may require the persons who demanded appraisal for their shares and who hold stock represented by stock certificates to submit their stock certificates to the Register in Chancery for notation thereon of the pendency of the appraisal proceedings. Accordingly, persons holding stock represented by stock certificates and wishing to seek appraisal of their shares are cautioned to retain their stock certificates pending resolution of the appraisal proceedings. If any person fails to comply with this requirement, the Delaware Court of Chancery may dismiss the proceedings as to such person. Upon application by the converted corporation or by any person entitled to participate in the appraisal proceeding, the Delaware Court of Chancery may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the persons entitled to an appraisal. Any person whose name appears on the verified list may participate fully in all proceedings until it is finally determined that such person is not entitled to appraisal rights under Section 262.

Determination of Fair Value

After the Delaware Court of Chancery determines the persons entitled to appraisal, then the appraisal proceeding will be conducted in accordance with the rules of the Delaware Court of Chancery, including any rules specifically governing appraisal proceedings. Through such proceeding, the Delaware Court of Chancery will determine the "fair value" of the shares of our Class B Common Stock, exclusive of any element of value arising from the accomplishment or expectation of the Reincorporation, together with interest, if any, to be paid upon the amount determined to be the fair value. Unless the Delaware Court of Chancery in its discretion determines otherwise for good cause shown, interest from the Effective Time through the date of payment of the judgment will be compounded quarterly and will accrue at five percent over the Federal Reserve discount rate (including any surcharge) as established from time to time during the period between the Effective Time and the date of payment of the judgment. However, the converted corporation has the right, at any time prior to the Delaware Court of Chancery's entry of judgment in the proceedings, to make a voluntary cash payment to each person seeking appraisal. If the converted corporation makes a voluntary cash payment pursuant to subsection (h) of Section 262, interest will accrue thereafter only on the sum of (x) the difference, if any, between the amount paid by the converted corporation in such voluntary cash payment and the fair value of the shares as determined by the Delaware Court of Chancery and (y) interest accrued before such voluntary cash payment, unless paid at that time.

In determining fair value, the Delaware Court of Chancery will take into account all relevant factors. In Weinberger v. UOP, Inc., the Supreme Court of Delaware discussed the factors that could be considered in determining fair value in an appraisal proceeding, stating that "proof of value by any techniques or methods which are generally considered acceptable in the financial community and otherwise admissible in court" should be considered, and that "[f]air price obviously requires consideration of all relevant factors involving the value of a company." The Delaware Supreme Court stated that, in making this determination of fair value, the court must consider market value, asset value, dividends, earnings, prospects, the nature of the enterprise and any other facts that could be ascertained as of the date of the transaction that "throw any light on future prospects" of the corporation. Section 262 provides that fair value is to be "exclusive of any element of value arising from the accomplishment or expectation" of the transaction. In Cede & Co. v. Technicolor, Inc., the Delaware Supreme Court stated that such exclusion is a "narrow exclusion [that] does not encompass known elements of value," but which rather applies only to the speculative elements of value arising from such accomplishment or expectation. In Weinberger, the Supreme Court of Delaware also stated that "elements of future value, including the nature of the enterprise, which are known or susceptible of proof as of the date of the [transaction] and not the product of speculation, may be considered."

ALTHOUGH WE BELIEVE THAT THE VALUE OF THE CLASS B COMMON STOCK OF THE TEXAS CORPORATION TO BE ISSUED IN CONNECTION WITH THE REINCORPORATION IS FAIR, NO REPRESENTATION IS MADE AS TO THE OUTCOME OF THE APPRAISAL OF FAIR VALUE AS DETERMINED BY THE DELAWARE COURT OF CHANCERY, AND STOCKHOLDERS AND BENEFICIAL OWNERS SHOULD RECOGNIZE THAT SUCH AN APPRAISAL COULD RESULT IN A DETERMINATION OF A VALUE HIGHER OR LOWER THAN, OR THE SAME AS,

THE VALUE OF THE TEXAS CORPORATION CLASS B COMMON STOCK TO BE ISSUED IN CONNECTION WITH THE REINCORPORATION.

We do not anticipate offering more than the applicable shares of Class B common stock of the Texas Corporation in connection with the Reincorporation to any persons exercising appraisal rights, and we reserve the right to make a voluntary cash payment pursuant to subsection (h) of Section 262 and to assert, in any appraisal proceeding, that for purposes of Section 262, the "fair value" of a share of our Class B Common Stock is less than the value of the Class B common stock of the Texas Corporation to be issued in connection with the Reincorporation.

The Delaware Court of Chancery will direct the payment of the fair value of the shares, together with interest, if any, by the converted corporation to the persons entitled thereto. Payment will be so made to each such person upon such terms and conditions as the Delaware Court of Chancery may order. The Delaware Court of Chancery's decree may be enforced as other decrees in such Delaware Court of Chancery may be enforced.

The costs of the appraisal proceedings (which do not include attorneys' fees or the fees and expenses of experts) may be determined by the Delaware Court of Chancery and taxed upon the parties as the Delaware Court of Chancery deems equitable under the circumstances. Upon application of a person whose name appears on the verified list who participated in the proceeding and incurred expenses in connection therewith (which we refer to as an "application"), the Delaware Court of Chancery may also order that all or a portion of such expenses, including, without limitation, reasonable attorney's fees and the fees and expenses of experts, be charged pro rata against the value of all the shares entitled to an appraisal that were not dismissed pursuant to subsection (k) of Section 262 or subject to an award pursuant to a reservation. In the absence of such determination or assessment, each party bears its own expenses.

If any person who demands appraisal of shares of our Class B Common Stock under Section 262 fails to perfect, or loses or validly withdraws, such person's right to appraisal, or if no petition for appraisal is filed within 120 days after the Effective Time, such person will be deemed to have accepted the terms offered in the Reincorporation.

From and after the Effective Time, no person who has demanded appraisal rights in compliance with Section 262 will be entitled to vote such shares of our Class B Common Stock for any purpose or to receive payment of dividends or other distributions on the stock (except dividends or other distributions payable to stockholders of record at a date which is prior to the Effective Time).

Failure to comply strictly with all of the procedures set forth in Section 262 may result in the loss of appraisal rights. Consequently, any person wishing to exercise appraisal rights is encouraged to consult legal counsel before attempting to exercise those rights.

As of November 19, 2026, we had 30 holders of record of our Class B Common Stock and 45,289,716 shares of our Class B Common Stock outstanding.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth certain information with respect to the beneficial ownership of our capital stock as of November 13, 2026 for:

- each stockholder known by us to be the beneficial owner of more than 5% of our outstanding shares of our Class A Common Stock or Class B Common Stock;
- each of our named executive officers;
- each of our directors; and
- all of our directors and executive officers as a group.

The number of shares of Class A common stock listed in the table below represents shares of Class A common stock directly owned and assumes no exchange of LLC Units for Class A common stock. Each Class B stockholder is entitled to have their LLC Units exchanged for Class A common stock on a one-for-one basis, or, at the Company's election, for cash. In connection with the IPO, the Company issued to each Class B stockholder one share of Class B common stock for each Class B unit it beneficially owns. As a result, the number of shares of Class B common stock listed in the first table below correlates to the number of LLC Units each Class B stockholder beneficially owns.

The Company has determined beneficial ownership in accordance with the rules and regulations of the SEC, and the information is not necessarily indicative of beneficial ownership for any other purpose. Except as indicated by the footnotes below, the Company believes, based on information furnished to the Company, that the persons and entities named in the table below have sole voting and sole investment power with respect to all shares that they beneficially own, subject to applicable community property laws.

Applicable percentage ownership is based on 19,903,647 shares of Class A common stock outstanding and 45,289,716 shares of Class B common stock as of November 13, 2026. Each share of Class A common stock and Class B common stock is entitled to one vote. In computing the number of shares beneficially owned by a person and the percentage ownership of such person, the Company deemed to be outstanding all shares underlying RSUs held by the person that will vest within 60 days of November 13, 2026 and/or subject to options held by the person that are currently exercisable, or would be exercisable, or would vest based on service-based vesting conditions within 60 days of November 13, 2026. However, except as described above, the Company did not deem such shares outstanding for the purpose of computing the percentage ownership of any other person.

Unless otherwise indicated, the address for each beneficial owner listed in the table below is c/o Viant Technology Inc., 2722 Michelson Drive, Suite 100, Irvine, California 92612.

	Class A Common Stock		Class B Common Stock		Percentage of Class A Common Stock Beneficially Owned+	Percentage of Total Voting Power
Name of Beneficial Owner	Shares	%	Shares	%		
Named Executive Officers and Directors:						
Tim Vanderhook(1)	923,295	4.6%	7,833,774	17.3%	30.7%	13.4%
Chris Vanderhook(2)	1,008,295	5.1%	7,833,774	17.3%	31.0%	13.6%
Larry Madden(3)	563,970	2.8%	474,356	1.0%	5.0%	1.6%
Max Valdes(4)	14,905	*	—	—	*	*
Brett Wilson(5)	20,727	*	—	—	*	*
Vivian Yang(6)	93,913	*	—	—	*	*
Craig Abrahams(7)	—	—	—	—	—	—
All executive officers and directors as a group (7 persons)(8)	2,625,105	13.2%	16,141,904	35.6%	49.2%	28.8%
Greater than 5% Holders:						
Capital V LLC(9)	—	—	27,209,326	60.08%	57.8%	41.7%
Viant Technology Equity Plan LLC(10)	—	—	2,412,842	5.33%	10.8%	3.7%
Royce & Associates LP(11)	1,392,004	7.0%	—	—	7.0%	2.1%
Punch & Associates Investment Management, Inc.(12)	1,155,133	5.8%	—	—	5.8%	1.8%
BlackRock, Inc.(13)	1,032,607	5.2%	—	—	5.2%	1.6%

* Less than 1 percent.

\+ Reflects beneficial ownership of Class A common stock as defined in Rule 13d-3(d)(1) of the Exchange Act.

(1) Includes (i) 167,846 shares of Class A common stock, (ii) options to purchase 739,250 shares of Class A common stock that are currently exercisable within 60 days of November 13, 2026, (iii) 16,199 restricted stock units scheduled to vest within 60 days of November 13, 2026 and (iv) 7,833,774 LLC Units and an equal number of shares of Class B common stock (208,384 of which are held indirectly in Grantor Retained Annuity Trusts). Does not account for shares of Class B common stock held directly by Capital V LLC ("Capital V"). Mr. Vanderhook holds a one-third interest in Capital V, representing an economic interest in an additional 9,069,775 shares of Class B common stock and 9,069,775 LLC Units of Viant Technology LLC. Voting and investment decisions by Capital V require approval of a majority-in-interest of the members of Capital V, and accordingly no individual has voting or investment control over the shares held by Capital V. However, Capital V, Tim Vanderhook and Chris Vanderhook constitute a "group" within the meaning of Section 13(d) of the Exchange Act with 71.4% combined beneficial ownership of Class A common stock as calculated in accordance with Rule 13d-3(d)(1) of the Exchange Act.

(2) Includes (i) 252,846 shares of Class A common stock, (ii) options to purchase 739,250 shares of Class A common stock that are currently exercisable within 60 days of November 13, 2026, (iii) 16,199 restricted stock units scheduled to vest within 60 days of November 13, 2026 and (iv) 7,833,774 LLC Units and an equal number of shares of Class B common stock (208,384 of which are held indirectly in Grantor Retained Annuity Trusts). Does not account for shares of Class B common stock held directly by Capital V. Mr. Vanderhook also holds a one-third interest in Capital V, representing an economic interest in an additional 9,069,775 shares of Class B common stock and 9,069,775 LLC Units. Voting and investment decisions by Capital V require approval of a majority-in-interest of the members of Capital V and accordingly no individual has voting or investment control over the shares held by Capital V. However, Capital V, Tim Vanderhook and Chris Vanderhook constitute a "group" within the meaning of Section 13(d) of the Exchange Act with 71.4% combined beneficial ownership of Class A common stock as calculated in accordance with Rule 13d-3(d)(1) of the Exchange Act.

(3) Includes (i) 12,336 shares of Class A common stock, (ii) options to purchase 507,122 shares of Class A common stock that are currently exercisable within 60 days of November 13, 2026, (iii) 44,512 restricted stock units scheduled to vest within 60 days of November 13, 2026 and (iv) 474,356 LLC Units and an equal number of shares of Class B common stock held directly by Viant Technology Equity Plan LLC ("VTEP LLC"), which LLC Units Mr. Madden has voting and investment control over.

(4) Consists of 14,905 shares of Class A common stock.

(5) Consists of 20,727 shares of Class A common stock.

(6) Consists of 93,913 shares of Class A common stock.

(7) Mr. Abrahams does not beneficially own any shares of our capital stock.

(8) Includes (i) 562,573 shares of Class A common stock, (ii) options to purchase 1,985,622 shares of Class A common stock that are currently exercisable within 60 days of November 13, 2026, (iii) 76,910 restricted stock units scheduled to vest within 60 days of November 13, 2026 and (iv) 16,141,904 LLC Units and an equal number of shares of Class B common stock.

(9) Includes 27,209,326 shares of Class B common stock and 27,209,326 LLC Units. Each of Tim Vanderhook, Chris Vanderhook and Russ Vanderhook holds a one-third interest in Capital V. Voting and investment decisions by Capital V require approval of a majority-in-interest of the members of Capital V. Capital V, Tim Vanderhook and Chris Vanderhook constitute a "group" within the meaning of Section 13(d) of the Exchange Act with 71.4% combined beneficial ownership of Class A common stock as calculated in accordance with Rule 13d-3(d)(1) of the Exchange Act.

(10) Includes 2,412,842 shares of Class B common stock and 2,412,842 LLC Units. Each member of VTEP LLC (including Larry Madden, as noted in footnote 3 above) has voting and investment control over the LLC Units held by VTEP LLC that such member has a pecuniary interest in.

(11) Based solely on information reported in a Schedule 13G/A filed with the SEC on October 23, 2026. Royce & Associates LP ("Royce") reports sole voting and dispositive power over all of the reported shares. Royce's address is One Madison Avenue, New York, NY 10010.

(12) Based solely on information reported in a Schedule 13G/A filed with the SEC on August 14, 2025. Punch & Associates Investment Management, Inc. ("Punch & Associates") reports sole voting power and sole

dispositive power over all of the reported shares. Punch & Associates' address is 7701 France Ave. So., Suite 300, Edina, MN 55435.

(13) Based solely on information reported in a Schedule 13G/A filed with the SEC on January 26, 2024. BlackRock, Inc. ("BlackRock") reports sole voting power over 1,026,330 of the reported shares and sole dispositive power over all of the reported shares. BlackRock's address is 55 East 52nd Street, New York, NY 10055.

Delivery of Documents to Security Holders Sharing an Address

The SEC has adopted rules that permit companies and intermediaries (e.g., brokerage firms) to satisfy the delivery requirements for Information Statements, proxy statement and other proxy materials with respect to two or more stockholders sharing the same address by delivering a single Information Statement, proxy statement or other proxy materials addressed to those stockholders. This process, which is commonly referred to as "householding," potentially means extra convenience for stockholders and cost savings for companies.

A number of brokerage firms with account holders who are our stockholders will likely be "householding" our Information Statement. A single Information Statement will be delivered to multiple stockholders sharing an address unless contrary instructions have been received from the affected stockholders. Once you have received notice from your brokerage firm that they will be "householding" communications to your address, "householding" will continue until you are notified otherwise or until you revoke your consent. We will deliver promptly upon written or oral request a separate copy of this Information Statement to a stockholder at a shared address to which a single copy of this Information Statement was delivered. If, at any time, you no longer wish to participate in "householding" and would prefer to receive a separate Information Statement, proxy statement or other proxy materials, please contact (1) your broker or (2) the Company by mail by writing to the Corporate Secretary, Viant Technology Inc., 2722 Michelson Drive, Suite 100, Irvine, California 92612, or by telephone request to (949) 861-8888. Stockholders who currently receive multiple copies of the Information Statement at their address and would like to request "householding" of their communications should contact their broker or the Company at the above phone number or address.

This Information Statement is provided to the stockholders of the Company only for information purposes in connection with the Consenting Stockholders' approval of the Reincorporation, pursuant to and in accordance with Rule 14c-2 of the Exchange Act. Please carefully read this Information Statement.

Where You Can Find More Information About Us

We file our annual, periodic and current reports, and other required information, electronically with the SEC and this information is available at www.sec.gov. We also make available on our website at www.viantinc.com, free of charge, copies of these reports and other information as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. We will provide without charge to each person to whom a copy of this Information Statement has been delivered, upon the written or oral request of any such person, a copy of any document referred to in this Information Statement. Requests for such copies should be directed to: Corporate Secretary, 2722 Michelson Drive, Suite 100, Irvine, California 92612.

Viant Technology has used, and intends to continue to use, the "Investor Relations" section of its website at investors.viantinc.com, its LinkedIn account, the LinkedIn account of its Chief Executive Officer, Tim Vanderhook, the LinkedIn account of its Chief Operating Officer, Chris Vanderhook, its X (formerly known as Twitter) account (@viant_tech), and Chris Vanderhook's X account (@cvanderhook) to post information that may be important to investors. Investors and potential investors are encouraged to consult Viant Technology's website and the foregoing LinkedIn and X accounts regularly for important information. The contents of the websites referred to above are not intended to be incorporated by reference into this Information Statement or in any other report or document we file with the SEC, and any references to websites are intended to be inactive textual references only.

By Order of the Board of Directors,

Tim Vanderhook
Chief Executive Officer and Chairman
Viant Technology Inc.
[ ], 2026

RESOLUTIONS
OF THE BOARD OF DIRECTORS
OF VIANT TECHNOLOGY INC.

CONVERSION OF THE CORPORATION FROM A DELAWARE CORPORATION INTO A TEXAS CORPORATION

WHEREAS, as part of its ongoing oversight, direction and management of the business of Viant Technology Inc., a Delaware corporation (the "***Corporation***"), and in furtherance of the Corporation's commitment to promoting effective corporate governance, the Board formed a special committee (the "***Special Committee***") of the Board of Directors (the "***Board***") to evaluate the merits of remaining a Delaware corporation versus reincorporating outside of Delaware and delegated authority to the Special Committee to: (i) explore, review, and evaluate a potential reincorporation of the Corporation in a jurisdiction other than the State of Delaware (the "***potential reincorporation***"), including consideration of legal, regulatory, tax, corporate governance, and other implications thereof; (ii) oversee the preparation and review of any proxy statement, information statement, or other disclosure document to be filed with the Securities and Exchange Commission or distributed to stockholders in connection with the potential reincorporation; (iii) make recommendations to the Board regarding whether to proceed with the potential reincorporation and, if so, the terms, structure, and timing thereof; (iv) report regularly to the Board regarding the activities and deliberations of the Special Committee; and (v) exercise any other powers and carry out any other responsibilities related to the potential reincorporation as are consistent with these resolutions and the Corporation's bylaws;

WHEREAS, the Special Committee considered various factors during its evaluation of the potential reincorporation, including the current state of Delaware law, including with respect to reincorporation, any risks associated with the potential reincorporation to the Corporation and its stockholders, and the relative merits to the Corporation and its stockholders of various state laws, including Delaware and Texas;

WHEREAS, following its evaluation of the potential reincorporation, the Special Committee reported its findings to the Board, determined that a reincorporation of the Corporation from the State of Delaware to the State of Texas was in the best interests of the Corporation and its stockholders and recommended that the Board approve a reincorporation of the Corporation from the State of Delaware to the State of Texas and recommend that the stockholders of the Corporation approve the reincorporation;

WHEREAS, having discussed and considered the Special Committee's recommendation, including the benefits and detriments of the potential reincorporation, the Board has determined that (i) approving and effecting a reincorporation of the Corporation from the State of Delaware to the State of Texas by the conversion of the Corporation from a corporation organized under the laws of the State of Delaware to a corporation organized under the laws of the State of Texas, pursuant to and in accordance with (a) Section 266 of the General Corporation Law of the State of Delaware (the "***DGCL***") and Title 1, Chapter 10, Subchapter C of the Texas Business Organizations Code (as amended from time to time, the "***TBOC***") and (b) the Plan of Conversion substantially in the form attached hereto as Exhibit A (the "***Plan of Conversion***," and such conversion, the "***Conversion***"), and (ii) approving and adopting the Plan of Conversion, the initial Certificate of Formation of the Converted Corporation (as defined below), substantially in the form attached hereto as Exhibit B (the "***Texas Certificate of Formation***"), and the initial Bylaws of the Converted Corporation, substantially in the form attached hereto as Exhibit C (the "***Texas Bylaws***" and, together with the Texas Certificate of Formation, the "***Texas Governing Documents***"), are advisable and in the best interests of the Corporation and its stockholders;

WHEREAS, upon the Conversion, the Corporation will cease to be governed by the laws of the State of Delaware and its Amended and Restated Certificate of Incorporation (the "***Delaware Charter***") and Amended and Restated Bylaws, each as currently in effect, and will become a corporation governed by the laws of the State of Texas (the "***Converted Corporation***") and the Texas Governing Documents;

WHEREAS, following receipt of the requisite approval of the stockholders of the Corporation of the Conversion (including the Plan of Conversion and the Texas Governing Documents), the Conversion, unless the Plan of Conversion is terminated and the Conversion is abandoned or deferred by the Board, will become effective at the date and time (the "***Effective Time***") specified in each of (i) a certificate of conversion meeting the requirements of the relevant provisions of the TBOC to be properly executed and filed in accordance with such provisions (the "***Texas Certificate of Conversion***") and (ii) a certificate of conversion meeting the requirements of Section 266 of the DGCL to be properly executed and filed in accordance with such section (the "***Delaware Certificate of Conversion***");

WHEREAS, at the Effective Time, by virtue of the Conversion and without any further action by the Corporation or its stockholders, the Converted Corporation, the holders thereof, or any other person, and as more fully set forth in the Plan of Conversion, each share of Class A Common Stock and Class B Common Stock (each, as defined in the Delaware Charter as currently in effect), par value $0.001 per share (together, the "***Common Stock***"), of the Corporation issued and outstanding or held in treasury immediately prior to the Effective Time will be automatically converted into one validly issued, fully paid and nonassessable share of Class A Common Stock or Class B Common Stock, as applicable, par value $0.001 per share, or treasury share of the Converted Corporation, and each option, warrant, restricted stock unit, or other right to receive or acquire shares of Class A Common Stock or Class B Common Stock of the Corporation, whether vested or unvested, which is outstanding immediately prior to the Effective Time, will continue in existence and, from and after the Effective Time, constitute an option, warrant, restricted stock unit, or other right to receive or acquire an equal number of shares of Class A Common Stock or Class B Common Stock, as applicable, of the Converted Corporation, and, if applicable, with the same exercise, purchase or conversion price per share, and will, to the extent permitted by law and otherwise reasonably practicable, have the same term, exercisability, vesting schedule, status and all other terms and conditions as in effect immediately prior to the Effective Time; and

WHEREAS, it is intended that the Conversion qualify as a "reorganization" within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "***Code***"), and that the Plan of Conversion constitute and be adopted as a "plan of reorganization" within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the U.S. Treasury Regulations promulgated under the Code.

NOW, **THEREFORE**, **BE IT RESOLVED**, that the Board hereby determines that the Conversion, the Plan of Conversion and the Texas Governing Documents are advisable and in the best interests of the Corporation and its stockholders and hereby approves, adopts and declares advisable the Conversion (by means of conversion of the Corporation from a corporation organized under the laws of the State of Delaware to a corporation organized under the laws of the State of Texas), the Plan of Conversion and the Texas Governing Documents.

RESOLVED FURTHER, that the form, terms, provisions, and conditions of the Plan of Conversion be, and the same hereby are, in all respects approved and adopted.

RESOLVED FURTHER, that the Board hereby directs that the Conversion (including the Plan of Conversion and the Texas Governing Documents) be submitted to the stockholders of the Corporation for approval, including by written consent pursuant to Section 228 of the DGCL and Article VI of the Delaware Charter, by (a) the holders of a majority of the voting power of the Corporation's outstanding shares of capital stock entitled to vote thereon and (b) the holders of a majority of the outstanding shares of Class B Common Stock pursuant to the Delaware Charter, and the Board hereby recommends that the stockholders of the Corporation approve the Conversion (including the Plan of Conversion and the Texas Governing Documents).

RESOLVED FURTHER, that the close of business on November 19, 2026, be, and it hereby is, fixed as the record date for determining the stockholders of record of the Corporation entitled to consent to the matters submitted to the stockholders of the Corporation for approval without a meeting pursuant to these resolutions.

RESOLVED FURTHER, that, notwithstanding approval of the Conversion (including the Plan of Conversion and the Texas Governing Documents) by the stockholders of the Corporation, and the adoption of these

resolutions, the Board may, at any time prior to the Effective Time, terminate the Plan of Conversion and abandon the Conversion, or defer the consummation of the Conversion, without further action by the stockholders of the Corporation, if the Board determines in its discretion that such action would be in the best interests of the Corporation and its stockholders.

RESOLVED FURTHER, that, pursuant to the Plan of Conversion, at the Effective Time, any outstanding book-entry entitlements representing issued and outstanding shares of Common Stock of the Corporation shall automatically become the number and class of shares of the Converted Corporation into which such shares of the Corporation have been converted as herein provided in accordance with the customary procedures of the Corporation's transfer agent.

RESOLVED FURTHER, that, pursuant to Section 4.12(b) of the Delaware Charter, the Board hereby determines, in good faith, that any differences in the kind and amount of stock to be received by the holders of Class B Common Stock that differ from holders of Class A Common Stock are intended to maintain the relative voting power of each share of Class B Common Stock relative to each share of Class A Common Stock.

RESOLVED FURTHER, that, for purposes of Subchapter M of Chapter 21 of the TBOC, the Board hereby approves (i) the acquisition by each of Tim Vanderhook, Chris Vanderhook, Four Brothers 2 LLC and their respective "affiliates" and "associates" (collectively, the "***Vanderhook Parties***") of shares of Class A Common Stock and Class B Common Stock of the Converted Corporation in the Conversion, (ii) each future issuance to, or acquisition by, any Vanderhook Party or any permitted transferee thereof of shares of Class B Common Stock of the Converted Corporation pursuant to Section 4.9 of the Texas Certificate of Formation and of shares of Class A Common Stock of the Converted Corporation upon the exchange of Class B Units (as defined in the Texas Certificate of Formation) pursuant to Section 4.7 of the Texas Certificate of Formation, and (iii) any deemed "business combination" between the Converted Corporation or any of its subsidiaries (including Viant Technology LLC) and any Vanderhook Party or any such permitted transferee arising from the acquisitions, issuances or exchanges contemplated by (i) or (ii) or under the limited liability company agreement of Viant Technology LLC or the Tax Receivable Agreement (Exchanges), dated as of February 9, 2021, among the Corporation, Viant Technology LLC and the other parties thereto, such that Section 21.606 of the TBOC shall not apply to any of the foregoing.

RESOLVED FURTHER, that upon receipt of the requisite stockholder approval of the Conversion and unless the Conversion is abandoned or deferred by future action of the Board, each of the officers of the Corporation (each, an "***Authorized Officer***") be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and without further action from the Board, to prepare, execute, file and deliver all agreements, documents, notices, certificates, consents, approvals or other instruments and take all such actions that such Authorized Officer deems necessary, desirable or appropriate in order to perform the Corporation's obligations under the Plan of Conversion and to consummate the Conversion, including, without limitation, (a) the preparation, execution and filing of the Texas Certificate of Conversion and the Texas Certificate of Formation with the Secretary of State of the State of Texas and the Delaware Certificate of Conversion with the Secretary of State of the State of Delaware; (b) the filing of the annual franchise tax reports required by the Secretary of State of the State of Delaware and the payment of the applicable franchise taxes; (c) the payment of any fees that may be necessary in connection with the Conversion; (d) the submission of all required notifications to The Nasdaq Stock Market LLC or any other applicable stock exchange; (e) the filing of Current Reports on Form 8-K and any other regulatory filings that may be necessary, desirable or appropriate in connection with the Conversion; and (f) the execution and filing of all such other and further agreements, requests, certificates, instruments or documents, including any documents as may be necessary to cancel the Corporation's foreign qualification registrations in any jurisdiction in which the Corporation may be currently qualified or otherwise doing business, if applicable, and applications to qualify the Converted Corporation to do business in any jurisdiction, as the Authorized Officers may deem necessary or appropriate.

RESOLVED FURTHER, that, to the extent required by the TBOC and the Texas Certificate of Formation, each member of the Board hereby consents to the use of electronic transmission with respect to any notices to be delivered to such director, both in such director's capacity as a director and as a stockholder.

RESOLVED FURTHER, that the Authorized Officers of the Corporation are authorized and directed to execute and deliver all documents and take whatever actions are deemed necessary or advisable to comply with all applicable state and federal securities laws, including any exemption from registration for the issuance of shares of capital stock of the Converted Corporation in the Conversion.

RESOLVED FURTHER, that the Authorized Officers, and each of them, are hereby authorized and empowered, in the name and on behalf of the Corporation and without further action from the Board, to prepare or cause to be prepared, execute, deliver and file any and all agreements, instruments or documents, perform all acts, do all things, and pay or cause to be paid all liabilities, fees, expenses and costs such Authorized Officer deems necessary, desirable or appropriate to consummate, effectuate, carry out or further the transactions contemplated by and the intent and purposes of the foregoing resolutions; and any and all agreements, instruments or documents heretofore executed and acts heretofore done in connection with the actions contemplated by the foregoing resolutions are hereby in all respects ratified and confirmed.

CLASSIFICATION OF BOARD

WHEREAS, the Texas Certificate of Formation provides that, among other things, the Board shall assign the members of the Board to three (3) classes, subject to and effective on the effective date of the Texas Certificate of Formation (the "***Effective Date***"), with terms expiring as follows: (a) Class III, with a term expiring at the first annual meeting of shareholders following the Effective Date, (b) Class I, with a term expiring at the second annual meeting of shareholders following the Effective Date and (c) Class II, with a term expiring at the third annual meeting of shareholders following the Effective Date.

NOW, **THEREFORE**, **BE IT RESOLVED**, that, effective on the Effective Date, the directors shall be classified in three classes as follows:

- Class III, with a term expiring at the first annual meeting of shareholders following the Effective Date: Tim Vanderhook and Vivian Yang
- Class I, with a term expiring at the second annual meeting of shareholders following the Effective Date: Craig Abrahams and Max Valdes
- Class II, with a term expiring at the third annual meeting of shareholders following the Effective Date: Chris Vanderhook and Brett Wilson

AMENDMENT OF EQUITY INSTRUMENTS AND EMPLOYMENT AGREEMENTS TO ACCOUNT FOR TEXAS CONVERSION

WHEREAS, the Corporation currently maintains the Corporation's 2021 Long-Term Incentive Plan and the Corporation's Annual Incentive Plan (the "***Plans***"); and

WHEREAS, the Board has determined that it is necessary to update certain provisions in the Plans to reflect the Conversion.

NOW, **THEREFORE**, **BE IT RESOLVED**, that each of the Plans (including any individual equity agreements under such Plans) shall continue to be a plan or agreement of the Converted Corporation on the same terms and conditions and shall be, and hereby is, deemed automatically amended to reflect that (effective as of the Conversion): (i) with respect to the Plans and individual award agreements thereunder, references to governing law and any other references to jurisdiction under the applicable agreements or Plans shall become references to

Texas instead of Delaware, (ii) references to the Corporation or the Board (or any committee thereof) shall become references to the Converted Corporation or its board of directors (or any committee thereof), (iii) references (including issuances, value or anything similar) to capital stock or other equity securities of the Corporation shall become references to equity securities of the Converted Corporation, with, if applicable, the same exercise, purchase or conversion price per share, (iv) the Corporation's identification will be updated to read "Viant Technology Inc., a Texas corporation" and (v) references to the certificate of incorporation and bylaws of the Corporation will become references to the Texas Governing Documents, as applicable (collectively, the "***Agreement Amendments***").

RESOLVED FURTHER, that the Authorized Officers be, and each of them hereby is, authorized and directed to execute and deliver, in the name and on behalf of the Corporation, any and all agreements, documents or instruments as may be necessary or advisable to effect the Agreement Amendments.

WRITTEN CONSENT OF THE STOCKHOLDERS; INFORMATION STATEMENT AND SEC FILINGS

RESOLVED, that a written consent of the stockholders of the Corporation be solicited pursuant to Section 228 of the DGCL to approve the Conversion (including the Plan of Conversion and the Texas Governing Documents).

RESOLVED FURTHER, that the Authorized Officers be, and each of them acting singly hereby is, authorized and directed, in the name and on behalf of the Corporation, to prepare (i) an information statement and written consent reflecting the foregoing, (ii) the notice of the taking of such action to stockholders who have not consented in writing as required by Section 228(e) of the DGCL, (iii) the notice of the availability of appraisal rights, together with a copy of Section 262 of the DGCL, to each stockholder entitled to appraisal rights (if any) in accordance with Section 262(d)(2) of the DGCL and (iv) any and all related documents which such officers shall determine necessary or desirable in connection with the Conversion (collectively, the "***Information Statement Materials***").

RESOLVED FURTHER, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed on behalf of the Corporation and in its name to take any action to prepare or cause to be prepared and to file or cause to be filed with the Securities and Exchange Commission (the "***SEC***") and to prepare, execute and file any and all documents, applications, statements, reports, registrations, schedules, information or filings and other papers and instruments (and any amendments or supplements thereto), which may be required from time to time by applicable law or regulation or by applicable authorities in connection with the foregoing resolutions or related or incidental thereto, including, without limitation, the Information Statement Materials, together with any and all amendments and supplements thereto which such Authorized Officers shall determine to be necessary or appropriate, with the approval and authorization thereof to be conclusively evidenced by the execution or filing of such amendments or supplements, and one or more Current Reports on Form 8-K to report any of the matters contemplated by the foregoing resolutions by the Corporation and any and all additional documents and information required to be filed therewith, as shall be deemed necessary or advisable under the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), and the rules and regulations of the SEC promulgated thereunder, and any appropriate self-regulatory commissions or state securities commissions.

RESOLVED FURTHER, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation, to mail or cause to be mailed or otherwise furnished or made available to the stockholders of the Corporation all documents as shall be necessary or advisable in connection with the Conversion, including, without limitation, the Information Statement Materials, with the notice described in clause (ii) of the definition of Information Statement Materials to be delivered promptly following the effectiveness of such written consent and the notice described in clause (iii) of such definition to be delivered, at any time permitted by the DGCL, to each stockholder entitled to appraisal rights.

GENERAL AUTHORIZATIONS

RESOLVED, that any and all acts, transactions, agreements or certificates previously signed on behalf of the Corporation by the Authorized Officers consistent with the foregoing resolutions and in furtherance thereof be, and they hereby are, approved and ratified in all respects as the true acts and deeds of the Corporation with the same force and effect as if each such act, transaction, agreement or certificate had been specifically authorized in advance by resolution of the Board and that the Authorized Officers did execute the same.

RESOLVED FURTHER, that the Authorized Officers and all other officers be, and each of them hereby is, authorized, empowered and directed, for and on behalf of the Corporation and in its name, to take, or cause to be taken, any and all actions, to execute and deliver any and all agreements, certificates, assignments, instruments or other documents, and to do any and all things that, in the judgment of such officer or officers, may be necessary or advisable to effectuate the foregoing resolutions; such execution and delivery by any such officer or officers of any such agreement, certificate, assignment, instrument or other document or the doing by any of them of any such act (including the authorization of any change in any such agreement, certificate, assignment, instrument or other document) shall conclusively establish both the authority of such person to do so from the Corporation and the approval of the Board.

EXHIBIT A

Plan of Conversion

[see attached]

EXHIBIT B

Texas Certificate of Formation

[see attached]

EXHIBIT C

Texas Bylaws

[see attached]

PLAN OF CONVERSION

OF

VIANT TECHNOLOGY INC.

This PLAN OF CONVERSION (this "***Plan***"), dated as of [ ], 20[ ], is hereby adopted by Viant Technology Inc., a Delaware corporation (the "***Converting Entity***"), in order to set forth the terms, conditions and procedures governing its conversion to, and continued existence as, Viant Technology Inc., a Texas corporation (the "***Converted Entity***"), pursuant to Title 1, Chapter 10, Subchapter C of the Texas Business Organizations Code (the "***TBOC***") and Section 266 of the General Corporation Law of the State of Delaware (the "***DGCL***").

WHEREAS, the Board of Directors of the Converting Entity has approved this Plan and the conversion of the Converting Entity to the Converted Entity (the "***Conversion***"), has adopted such resolutions as required pursuant to the terms of the DGCL, and has submitted and recommended this Plan and the Conversion for approval by the stockholders of the Converting Entity, and the stockholders of the Converting Entity have validly approved this Plan and the Conversion in accordance with the requirements of the DGCL and the amended and restated certificate of incorporation of the Converting Entity (the "***Delaware Charter***").

NOW, THEREFORE, the Converting Entity does hereby adopt this Plan, as set forth below:

1. Plan of Conversion.

   a. The name of the Converting Entity is "Viant Technology Inc.", a Delaware corporation.

   b. The name of the Converted Entity is "Viant Technology Inc.", a Texas corporation.

   c. The Converting Entity is continuing its existence, without lapse or interruption, in the organizational form of a Texas for-profit corporation under the name "Viant Technology Inc."; that is, in the organizational form of the Converted Entity.

   d. The Converted Entity is to be a corporation and its jurisdiction of formation is the State of Texas.

   e. As of the Effective Time (as defined in Section 2), automatically by virtue of the Conversion and without any further action on the part of any person, (i) each share of Class A Common Stock (as such term is defined in the Delaware Charter, henceforth the "***Delaware Class A Common Stock***") issued and outstanding immediately prior to the Effective Time shall convert into one validly issued, fully paid and nonassessable share of Class A Common Stock (as such term is defined in the Texas Charter (as defined in Section 2), henceforth the "***Texas Class A Common Stock***"); and (ii) each share of Class B Common Stock (as such term is defined in the Delaware Charter, henceforth the "***Delaware Class B Common Stock***") issued and outstanding immediately prior to the Effective Time shall convert into one validly issued, fully paid and nonassessable share of Class B Common Stock (as such term is defined in the Texas Charter, henceforth the "***Texas Class B Common Stock***"). Any warrant, option, restricted stock unit, restricted stock, equity or equity-based award, or other right to acquire, or any instrument to convert into or exchange for, or that is based on the value of, Delaware Class A Common Stock, Delaware Class B Common Stock (collectively, the "***Delaware Capital Stock***") or other equity security of the Converting Entity, whether vested or unvested, which is outstanding immediately prior to the Effective Time, shall from and after the Effective Time, be a warrant, option, restricted stock unit, restricted stock, equity or equity-based award or other right to acquire, or any instrument to convert into or exchange for, or that is based on the value of, the same amount of Texas Class A Common Stock, Texas Class B Common Stock (collectively, the "***Texas Capital Stock***") or other equity security of the Converted Entity, respectively, and, if applicable, with the same exercise, purchase or conversion price per share. No shares of preferred stock are issued and outstanding as of the Effective Time.

f. As of the Effective Time, automatically by virtue of the Conversion and without any further action on the part of any person, each service provider letter or agreement, service provider benefit plan or agreement, incentive compensation (including any equity or cash plans, including the Converting Entity's 2021 Long-Term Incentive Plan (the "***2021 Plan***")) plan or agreement or other similar plan or agreement to which the Converting Entity is a party, or otherwise maintains, sponsors or contributes, shall continue to be a plan or agreement of the Converted Entity on the same terms and conditions and any references to the Converting Entity or its Board of Directors (or any committee thereof) thereunder shall mean the Converted Entity or its board of directors (or any committee thereof), respectively, on and after the Effective Time. To the extent that any such plan, letter or agreement provides for the issuance, or is otherwise based on the value, of Delaware Capital Stock or other equity security of the Converting Entity, as of the Effective Time, automatically by virtue of the Conversion and without any further action on the part of any person, such plan or agreement shall be deemed to provide for the issuance, or be based on the value, of the corresponding class or series of Texas Capital Stock or corresponding other equity security of the Converted Entity, respectively, and, if applicable, with the same exercise, purchase or conversion price per share. The 2021 Plan and all individual award agreements outstanding under the 2021 Plan shall be automatically updated (i) such that references to Delaware Class A Common Stock or similar terms shall be references to Texas Class A Common Stock, (ii) all references to Delaware shall become references to Texas (including governing law), (iii) all references to Delaware legal requirements shall be removed (and, if applicable, replaced with equivalent references to Texas legal requirements) and (iv) such additional changes determined necessary or advisable to reflect the Conversion (including as required by Texas governing law).

g. At and after the Effective Time, all outstanding certificates, if any, that immediately prior to the Effective Time represented issued and outstanding shares of Delaware Capital Stock shall be deemed for all purposes to evidence ownership of and to represent the number and class or series of shares of Texas Capital Stock into which such shares have been converted as herein provided, and shall be so registered on the books and records of the Converted Entity and its transfer agent, if any. At and after the Effective Time, all issued and outstanding shares of Delaware Capital Stock that are in uncertificated book-entry form immediately prior to the Effective Time shall automatically become the number and class or series of shares of Texas Capital Stock into which such shares have been converted as herein provided, and shall be so reflected on the books and records of the Converted Entity and its transfer agent, if any.

h. As of the Effective Time, automatically by virtue of the Conversion and without any further action on the part of any person, each agreement to which the Converting Entity is a party shall continue to be an agreement of the Converted Entity on the same terms and conditions and any references to the Converting Entity thereunder shall, on and after the Effective Time, mean the Converted Entity.

2. Effective Time. Provided this Plan has not been terminated pursuant to Section 8, the Conversion will be consummated under the TBOC and Section 266 of the DGCL by filing (a) with the Secretary of State of the State of Texas, a Certificate of Conversion in the form required by the TBOC (the "***Texas Certificate***") and executed in accordance with the relevant provisions of the TBOC, (b) with the Secretary of State of the State of Texas, a Certificate of Formation in the form attached hereto as Exhibit A (the "***Texas Charter***"), and (c) with the Secretary of State of the State of Delaware, a Certificate of Conversion meeting the requirements of Section 266 of the DGCL and executed in accordance with such section. The Conversion shall become effective at the same time specified in the Texas Certificate and the Certificate of Conversion filed with the Secretary of State of the State of Delaware (the "***Effective Time***"), and the Texas Charter shall become effective at the Effective Time. The Converting Entity shall make all other filings or recordings required by the TBOC or the DGCL in connection with the Conversion and is authorized and empowered to take any such other actions as may be necessary or prudent in connection with the Conversion.

3. Effects of the Conversion. The Conversion will have the effects set forth in the TBOC and the DGCL, including without limitation the effects set forth in Section 1.c of this Plan. From and after the Effective Time, the Conversion shall, for all purposes of the laws of the State of Delaware, have the effects set forth in

Section 266 of the DGCL and shall, for all purposes of the laws of the State of Texas, have the effects set forth in Title 1, Chapter 10 of the TBOC. The Converted Entity will be responsible for the payment of all of the Converting Entity's fees and franchise taxes and will be responsible for all of its debts and liabilities.

4. Governance of the Converted Entity. On and after the Effective Time, the affairs of the Converted Entity shall be governed in accordance with the TBOC and the Texas Charter, and the Bylaws of the Converted Entity in the form attached hereto as Exhibit B. From and after the Effective Time, by virtue of the Conversion and without any further action on the part of any person, (i) the members of the Board of Directors of the Converting Entity as of immediately prior to the Effective Time shall continue as, and shall constitute, all of the members of the board of directors of the Converted Entity, with each director to serve until his or her successor has been duly elected or appointed and qualified or until his or her earlier death, resignation or removal; (ii) each committee of the Board of Directors of the Converting Entity as of immediately prior to the Effective Time shall be, from and after the Effective Time, constituted as a committee of the board of directors of the Converted Entity on the same terms and with the same powers and authority as the applicable committee as of immediately prior to the Effective Time, and the members of each such committee as of immediately prior to the Effective Time shall continue as the members of each such committee of the Converted Entity, each to serve at the pleasure of the board of directors of the Converted Entity; and (iii) the officers of the Converting Entity as of immediately prior to the Effective Time shall continue as, and shall constitute, all of the officers of the Converted Entity, with each to serve until his or her successor has been duly elected or appointed and qualified or until his or her earlier death, resignation or removal.

5. Record of Conversion. Prior to the Conversion, unless this Plan has been terminated pursuant to Section 8, a copy of this Plan shall be kept at the principal place of business of the Converting Entity and, upon the written request of any stockholder of the Converting Entity to its Secretary, a copy of this Plan shall be promptly delivered to such stockholder. From and after the Effective Time, a copy of this Plan shall continue to be kept at the principal place of business of the Converted Entity and, upon the written request of any stockholder of the Converted Entity to its Secretary, a copy of this Plan shall be promptly delivered to such stockholder.

6. Foreign Qualifications of the Converted Entity. For the purpose of authorizing the Converted Entity to do business in any state, territory or dependency of the United States, including, but not limited to, Delaware, or of any foreign country in which it is necessary or expedient for the Converted Entity to transact business, the officers of the Converted Entity are hereby authorized and empowered to appoint and substitute all necessary agents or attorneys for service of process, to designate and to prepare, execute, and file, for and on behalf of the Converted Entity, all necessary certificates, reports, powers of attorney, and other instruments as may be required by the laws of such state, territory, dependency or foreign country to authorize the Converted Entity to transact business therein, and whenever it is expedient for the Converted Entity to cease doing business therein and withdraw therefrom, to revoke any appointment of agent or attorney for service of process, and to file such certificates, reports, revocation of appointment or surrender of authority as may be necessary to terminate the authority of the Converted Entity to do business in any such state, territory, dependency or foreign country, and all actions taken by the officers of the Converted Entity prior to the Effective Time in furtherance of this Section 6 shall be, and each of them hereby is, approved, ratified and confirmed in all respects as the proper acts and deeds of the Converted Entity.

7. Third Party Beneficiaries. This Plan shall not confer any rights or remedies upon any person or entity other than as expressly provided herein. It being understood that, notwithstanding anything to the contrary in this Plan, no provision of this Plan is intended to, or does, confer any rights or remedies on any current or former employee or other service provider of the Converting Entity (nor any other individual associated therewith), in their capacities as such, and none of such individuals shall be regarded for any purpose as a third party beneficiary to this Plan.

8. Termination; Abandonment. At any time before the Effective Time, irrespective of whether approval of the Conversion by the requisite stockholders of the Converting Entity has occurred, this Plan may be

terminated and the Conversion may be abandoned, or the consummation of the Conversion may be deferred if, in the discretion of the Board of Directors of the Converting Entity, such action would be in the best interests of the Converting Entity and its stockholders. In the event of termination of this Plan, this Plan shall become void and of no effect.

9. Severability. Whenever possible, each term and provision of this Plan will be interpreted in such manner as to be effective and valid under applicable law, but if any term or provision of this Plan is held to be prohibited by or invalid under applicable law or in any jurisdiction, such term or provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Plan. Upon the determination that any term or provision of this Plan is invalid, illegal or unenforceable, such term or provision shall be deemed amended in such jurisdiction, without further action on the part of any person or entity, to the limited extent necessary to render the same valid, legal or enforceable.

10. Plan of Reorganization. It is intended that the Conversion qualify as a "reorganization" within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "Code") (and any similar provision of state or local law). This Plan shall constitute, and is adopted as, a "plan of reorganization" within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the U.S. Treasury Regulations promulgated under the Code.

[*Signature Page Follows*]

IN WITNESS WHEREOF, Viant Technology Inc., a Delaware corporation, has caused this Plan to be executed by its duly authorized representative as of the date first stated above.

Viant Technology Inc.:

By: _____
Name:
Title: Chief Executive Officer

EXHIBIT A

TEXAS CHARTER
(attached)

EXHIBIT B

BYLAWS
(attached)

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

VIANT TECHNOLOGY INC.
(a Delaware corporation)

(Pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL"))

VIANT TECHNOLOGY INC., a corporation organized and existing under the provisions of the DGCL, DOES HEREBY CERTIFY:

FIRST: That the name of the corporation is Viant Technology Inc. (the "Corporation"), and that the Corporation was originally incorporated pursuant to the DGCL on October 9, 2020.

SECOND: The Corporation's Certificate of Incorporation (the "Original Certificate of Incorporation") was filed with the Secretary of State of the State of Delaware on October 9, 2020.

THIRD: This Amended and Restated Certificate of Incorporation has been duly adopted pursuant to Sections 242 and 245 of the DGCL.

FOURTH: The Original Certificate of Incorporation is hereby amended and restated in its entirety as follows:

ARTICLE I
NAME

The name of the corporation is Viant Technology Inc.

ARTICLE II
AGENT

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III
PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV
STOCK

Section 4.1 Authorized Stock. The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 610,000,000, of which 450,000,000 shall be designated as Class A Common

Stock, par value $0.001 per share (the "Class A Common Stock"), 150,000,000 shall be designated as Class B Common Stock, par value $0.001 per share (the "Class B Common Stock", and together with the Class A Common Stock, the "Common Stock"), and 10,000,000 shall be designated as Preferred Stock, par value $0.001 per share (the "Preferred Stock").

Section 4.2 Common Stock.

(a) Except as otherwise expressly provided herein or as required by the DGCL, the holders of shares of Class A Common Stock, as such, and Class B Common Stock shall vote together as one class on all matters (including the election of directors) submitted to a vote of the stockholders of the Corporation. Except as otherwise expressly provided herein or required by the DGCL, each holder of Class A Common Stock shall be entitled to one vote for each share of Class A Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote and each holder of Class B Common Stock shall be entitled to one vote for each share of Class B Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote; provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate of Incorporation, including any certificate of designations relating to any series of Preferred Stock (each hereinafter referred to as a "Preferred Stock Designation"), that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation (including any Preferred Stock Designation).

(b) Dividends. Subject to the rights of the holders of any outstanding series of Preferred Stock, the holders of shares of Class A Common Stock shall be entitled to receive dividends to the extent permitted by law when, as and if declared by the Board of Directors. Except as otherwise provided under this Certificate of Incorporation, dividends and other distributions shall not be declared or paid in respect of Class B Common Stock.

(c) Liquidation. Upon the dissolution, liquidation or winding up of the Corporation, subject to the rights of the holders of any outstanding series of Preferred Stock, the holders of shares of Class A Common Stock shall be entitled to receive the assets of the Corporation available for distribution to its stockholders ratably in proportion to the number of shares held by them. Holders of shares of Class B Common Stock shall not be entitled to receive any assets upon dissolution, liquidation or winding up of the Corporation.

Section 4.3 Preferred Stock. The Preferred Stock may be issued from time to time in one or more series. Subject to limitations prescribed by law and the provisions of this Article IV (including any Preferred Stock Designation), the Board of Directors is hereby authorized to provide by resolution and by causing the filing of a Preferred Stock Designation for the issuance of the shares of Preferred Stock in one or more series, and to establish from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences, and relative, participating, optional or other rights, if any, and the qualifications, limitations or restrictions, if any, of the shares of each such series.

Section 4.4 No Class Vote on Changes in Authorized Number of Shares of Stock. Subject to the rights of the holders of any outstanding series of Preferred Stock, the number of authorized shares of Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon, voting as a single class, irrespective of the provisions of Section 242(b)(2) of the DGCL.

Section 4.5 No Redemption; Cancellation. The Common Stock is not redeemable. The Class B Common Stock will be automatically cancelled upon the exchange of a Class B Unit (as defined herein) for a share of Class A Common Stock (or payment of the cash equivalent in respect thereof) on and subject to the terms and conditions contemplated by Article XII of the Second Amended and Restated Limited Liability Company Agreement of Viant Technology LLC, as the same may be amended, modified, supplemented and/or restated from time to time (the "LLC Agreement").

Section 4.6 No Preemptive, Subscription or Conversion Rights. No holder of shares of Common Stock, solely by virtue of such holder's status as such, shall be entitled to preemptive, subscription or conversion rights.

Section 4.7 Exchange.

(a) Viant Technology LLC ("Viant LLC") has issued units designated as "Class B Units" (each, a "Class B Unit") pursuant to the terms and subject to the conditions of the LLC Agreement. Each holder of Class B Units is referred to herein as a "Class B Holder."

(b) Pursuant to and subject to the terms of the LLC Agreement, each Class B Holder has the right to surrender a Class B Unit to Viant LLC, together with the surrender of one share of Class B Common Stock to the Company, in exchange for the issuance of one fully paid and nonassessable share of Class A Common Stock (or payment of the cash equivalent in respect thereof) on and subject to the terms and conditions set forth herein and in the LLC Agreement.

Section 4.8 Retirement of Class B Common Stock. If any outstanding share of Class B Common Stock shall cease to be held by a concurrent holder of a Class B Unit (including a transferee of a Class B Unit), such share shall automatically and without further action on the part of the Corporation or any holder of Class B Common Stock be transferred to the Corporation and upon such transfer shall be automatically retired and shall thereupon be restored to the status of an authorized but unissued share of Class B Common Stock of the Corporation.

Section 4.9 Further Issuances of Class B Common Stock. No shares of Class B Common Stock shall be issued at any time after the filing and effectiveness of this Certificate of Incorporation except to a Class B Holder in a number necessary to maintain a one-to-one ratio between the number of Class B Units and the number of shares of Class B Common Stock outstanding.

Section 4.10 Reservation of Stock. The Corporation will at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, solely for the purpose of effecting the exchange of Class B Units, such number of shares of Class A Common Stock as will from time to time be sufficient to effect the exchange of all outstanding Class B Units for Class A Common Stock.

Section 4.11 Protective Provisions. So long as any shares of Class B Common Stock remain outstanding, the Corporation will not, whether by merger, consolidation or otherwise, amend, alter, repeal or waive Section 4.7, Section 4.10, this Section 4.11 or Section 4.12 (or adopt any provision inconsistent therewith), without first obtaining the approval of the holders of a majority of the then-outstanding shares of Class B Common Stock, voting as a separate class, in addition to any other vote required by the DGCL, this Certificate of Incorporation or the Corporation's Bylaws, as the same may be amended or restated from time to time (the "Bylaws").

Section 4.12 Reclassifications, Mergers and Other Transactions.

(a) If the Corporation in any manner subdivides, combines or reclassifies the outstanding shares of Class A Common Stock or Class B Common Stock, the outstanding shares of the other such class shall, concurrently therewith, be subdivided, combined, or reclassified in the same proportion and manner such that the same proportionate equity ownership between the holders of outstanding Class A Common Stock and Class B Common Stock on the record date for such subdivision, combination or reclassification is preserved, unless different treatment of the shares of each such class is approved by (i) the holders of a majority of the outstanding Class A Common Stock and (ii) the holders of a majority of the outstanding Class B Common Stock, each of (i) and (ii) voting as separate classes. In the event of any such subdivision, combination or reclassification, the Corporation shall cause Viant LLC to make corresponding changes to the Class A Units and Class B Units to give effect to such subdivision, combination or reclassification.

(b) The Corporation shall not consolidate, merge, combine or consummate any other transaction in which shares of Class A Common Stock are exchanged for or converted into other stock or securities, or the right to receive

cash and/or any other property, unless in connection with any such consolidation, merger, combination or other transaction each share of Class B Common Stock and/or Class B Unit shall be entitled to be exchanged for or converted into the same kind and amount of stock or securities, cash and/or any other property, as the case may be, into which or for which each share of Class A Common Stock is exchanged or converted; provided, that the consideration for each share of Class B Common Stock and/or Class B Unit shall be deemed the same kind and amount into which or for which each share of Class A Common Stock is exchanged or converted, so long as any differences in the kind and amount of stock or securities, cash and/or any other property are intended (as determined by the Board of Directors in good faith) to maintain the relative voting power of each share of Class B Common Stock relative to each share of Class A Common Stock; provided, further, that the foregoing provisions of this Section 4.12(b) shall not apply to any action or transaction (including any consolidation, merger or combination) approved by (A) the holders of a majority of the outstanding Class A Common Stock, and (B) the holders of a majority of the outstanding Class B Common Stock, each of (A) and (B) voting as separate classes.

ARTICLE V
BOARD OF DIRECTORS

Section 5.1 Number. Except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation), the Board of Directors shall consist of not fewer than 3 nor more than 11 directors, the exact number to be determined from time to time solely by resolution of the Board of Directors.

Section 5.2 Classification.

(a) Except as may be otherwise provided with respect to directors elected by the holders of any series of Preferred Stock provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation) (the "Preferred Stock Directors")), the Board of Directors shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II and Class III. Class I directors shall initially serve until the first annual meeting of stockholders following the initial effectiveness of this Section 5.2; Class II directors shall initially serve until the second annual meeting of stockholders following the initial effectiveness of this Section 5.2; and Class III directors shall initially serve until the third annual meeting of stockholders following the initial effectiveness of this Section 5.2. Commencing with the first annual meeting of stockholders following the initial effectiveness of this Section 5.2, directors of each class the term of which shall then expire shall be elected to hold office for a three-year term and until the election and qualification of their respective successors in office. In case of any increase or decrease, from time to time, in the number of directors (other than Preferred Stock Directors), the number of directors in each class shall be apportioned as nearly equal as possible. The Board of Directors is authorized to assign members of the Board of Directors already in office to Class I, Class II or Class III, with such assignment becoming effective as of the initial effectiveness of this Section 5.2.

(b) Prior to any time that Tim Vanderhook, Chris Vanderhook and Four Brothers 2 LLC collectively cease to beneficially own a majority of the combined voting power of the Common Stock (the "Triggering Event"), subject to the rights of the holders of any outstanding series of Preferred Stock, and unless otherwise required by law, newly created directorships resulting from any increase in the authorized number of directors and any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause may be filled by the affirmative vote of (i) a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors, or by the sole remaining director or (ii) at least a majority of the voting power of the stock outstanding and entitled to vote thereon. Any director so chosen shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

(c) After the Triggering Event, subject to the rights of the holders of any outstanding series of Preferred Stock, and unless otherwise required by law, newly created directorships resulting from any increase in the authorized

number of directors and any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors, or by the sole remaining director. Any director so chosen shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

(d) No decrease in the authorized number of directors shall shorten the term of any incumbent director.

(e) Prior to the Triggering Event, any director, or the entire Board of Directors, may be removed, with or without cause, by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon; provided, however, that whenever the holders of any class or series are entitled to elect one or more directors by this Certificate of Incorporation (including any Preferred Stock Designation), with respect to the removal without cause of a director or directors so elected, the vote of the holders of the outstanding shares of that class or series and not the vote of the outstanding shares as a whole shall apply.

(f) After the Triggering Event, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon.

(g) During any period when the holders of any series of Preferred Stock have the right to elect additional directors as provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation), and upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of directors of the Corporation shall automatically be increased by such number of directors that the holders of any series of Preferred Stock have a right to elect, and the holders of such Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions; and (ii) each Preferred Stock Director shall serve until such Preferred Stock Director's successor shall have been duly elected and qualified, or until such director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, disqualification, resignation or removal. Except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation), whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to said provisions, the terms of office of all Preferred Stock Directors elected by the holders of such Preferred Stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate (in which case each such Preferred Stock Director shall cease to be qualified as a director and shall cease to be a director) and the total authorized number of directors of the Corporation shall be automatically reduced accordingly.

Section 5.3 Powers. Except as otherwise required by the DGCL or as provided in this Certificate of Incorporation (including any Preferred Stock Designation), the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 5.4 Election; Annual Meeting of Stockholders.

(a) Ballot Not Required. The directors of the Corporation need not be elected by written ballot unless the Bylaws of the Corporation so provide.

(b) Notice. Advance notice of nominations for the election of directors, and of business other than nominations, to be proposed by stockholders for consideration at a meeting of stockholders of the Corporation shall be given in the manner and to the extent provided in or contemplated by the Bylaws of the Corporation.

(c) Annual Meeting. The annual meeting of stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, if any, either within or without the State of Delaware, on such date, and at such time as the Board of Directors shall fix.

ARTICLE VI
STOCKHOLDER ACTION

Prior to the Triggering Event, except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation), any action required or permitted to be taken at any annual or special meeting of the stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote by consent in accordance with Section 228 of the DGCL.

After the Triggering Event, except with respect to actions required or permitted to be taken solely by holders of Preferred Stock pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation), no action that is required or permitted to be taken by the stockholders of the Corporation may be effected by consent of stockholders in lieu of a meeting of stockholders.

ARTICLE VII
SPECIAL MEETINGS OF STOCKHOLDERS

Except as otherwise required by law, and except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Designation), a special meeting of the stockholders of the Corporation may be called at any time only by or at the direction of the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer with the concurrence of a majority of the Board of Directors. Only such business shall be conducted at a special meeting of stockholders as shall have been specified in the notice for such meeting.

ARTICLE VIII
EXISTENCE

The Corporation shall have perpetual existence.

ARTICLE IX
AMENDMENT

Section 9.1 Amendment of Certificate of Incorporation. The Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision contained in this Certificate of Incorporation (including any Preferred Stock Designation), and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by the laws of the State of Delaware, and all powers, preferences and rights of any nature conferred upon stockholders, directors or any other persons by and pursuant to this Certificate of Incorporation (including any Preferred Stock Designation) in its present form or as hereafter amended are granted subject to this reservation; provided, however, that except as otherwise provided in this Certificate of Incorporation (including any provision of a Preferred Stock Designation that provides for a greater or lesser vote) and in addition to any other vote required by law, the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, shall be required to adopt, amend or repeal, or adopt any provision of this Certificate of Incorporation.

Section 9.2 Amendment of Bylaws. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, but subject to the terms of any series of Preferred Stock then outstanding, the Board of Directors is expressly authorized to adopt, amend or repeal the Bylaws of the Corporation. Except as otherwise provided in this Certificate of Incorporation (including the terms of any Preferred Stock Designation that require an additional vote) or the Bylaws of the Corporation, and in addition to any requirements of law, the affirmative

vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, shall be required for the stockholders to adopt, amend or repeal, or adopt any provision inconsistent with, any provision of the Bylaws of the Corporation.

ARTICLE X
LIABILITY OF DIRECTORS

Section 10.1 No Personal Liability. To the fullest extent permitted by the DGCL as the same exists or as may hereafter be amended, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

Section 10.2 Amendment or Repeal. Any amendment, repeal or elimination of this Article X, or the adoption of any provision of the Certificate of Incorporation inconsistent with this Article X, shall not affect its application with respect to an act or omission by a director occurring before such amendment, adoption, repeal or elimination.

ARTICLE XI
FORUM FOR ADJUDICATION OF DISPUTES

Section 11.1 Forum. Unless the Corporation, in writing, selects or consents to the selection of an alternative forum: (a) the sole and exclusive forum for any complaint asserting any internal corporate claims (as defined below), to the fullest extent permitted by law, and subject to applicable jurisdictional requirements, shall be the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have, or declines to accept, jurisdiction, another state court or a federal court located within the State of Delaware); and (b) the sole and exclusive forum for any complaint asserting a cause of action arising under the Securities Act of 1933, as amended, to the fullest extent permitted by law, shall be the federal district courts of the United States of America. For purposes of this Article XI, internal corporate claims means claims, including claims in the right of the Corporation that are based upon a violation of a duty by a current or former director, officer, employee or stockholder in such capacity, or as to which the DGCL confers jurisdiction upon the Court of Chancery. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, this Article XI shall not apply to suits brought to enforce a duty or liability created by the Securities Exchange Act of 1934, as amended. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XII.

Section 11.2 Enforceability. If any provision of this Article XI shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article XI (including, without limitation, each portion of any sentence of this Article XI containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby.

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IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be executed by a duly authorized officer of the Corporation, this 9th day of February, 2021.

VIANT TECHNOLOGY INC.

By: /s/ Larry Madden
Name: Larry Madden
Title: Chief Financial Officer

AMENDED AND RESTATED BYLAWS

OF

VIANT TECHNOLOGY INC.

(a Delaware corporation)

ARTICLE I
CORPORATE OFFICES

Section 1.1 Registered Office. The registered office of the Corporation shall be fixed in the Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") of the Corporation.

Section 1.2 Other Offices. The Corporation may also have an office or offices, and keep the books and records of the Corporation, except as otherwise required by law, at such other place or places, either within or without the State of Delaware, as the Corporation may from time to time determine or the business of the Corporation may require.

ARTICLE II
MEETINGS OF STOCKHOLDERS

Section 2.1 Annual Meeting. The annual meeting of stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, if any, either within or without the State of Delaware, on such date, and at such time as the Board of Directors shall fix. The Board of Directors may postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board of Directors.

Section 2.2 Special Meeting.

Except as otherwise required by law, and except as otherwise provided for or fixed pursuant to the Certificate of Incorporation, including any certificate of designations relating to any series of Preferred Stock (each hereinafter referred to as a "Preferred Stock Designation"), a special meeting of the stockholders of the Corporation may be called at any time only by or at the direction of the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer with the concurrence of a majority of the Board of Directors. The Board of Directors may postpone, reschedule or cancel any special meeting of stockholders previously scheduled by the Board of Directors. Only such business shall be conducted at a special meeting of stockholders as shall have been specified in the notice for such meeting.

Section 2.3 Notice of Stockholders' Meetings.

(a) Whenever stockholders are required or permitted to take any action at a meeting, notice of the place, if any, date, and time of the meeting of stockholders, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for determining the stockholders entitled to notice of the meeting), the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting and, if the meeting is to be held solely by means of remote communications, the means for accessing the list of stockholders contemplated by Section 2.5 of these Bylaws, shall be given. The notice shall be given not less than 10 nor more than 60 days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting, except as otherwise provided by law, the Certificate of Incorporation (including any Preferred Stock Designation) or these Bylaws. In the case of a special meeting, the purpose or purposes for which the meeting is called also shall be set forth in the notice.

(b) Except as otherwise required by law, notice may be given in writing directed to a stockholder's mailing address as it appears on the records of the Corporation and shall be given: (i) if mailed, when notice is deposited in the U.S. mail, postage prepaid; and (ii) if delivered by courier service, the earlier of when the notice is received or left at such stockholder's address.

(c) So long as the Corporation is subject to the Securities and Exchange Commission's proxy rules set forth in Regulation 14A under the Securities Exchange Act of 1934 (the "Exchange Act"), notice shall be given in the manner required by such rules. To the extent permitted by such rules, notice may be given by electronic transmission directed to the stockholder's electronic mail address, and if so given, shall be given when directed to such stockholder's electronic mail address unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by Section 232(e) of the General Corporation Law of the State of Delaware (the "DGCL"). If notice is given by electronic mail, such notice shall comply with the applicable provisions of Sections 232(a) and 232(d) of the DGCL.

(d) Notice may be given by other forms of electronic transmission with the consent of a stockholder in the manner permitted by Section 232(b) of the DGCL and shall be deemed given as provided therein.

(e) An affidavit that notice has been given, executed by the Secretary of the Corporation, Assistant Secretary or any transfer agent or other agent of the Corporation, shall be *prima facie* evidence of the facts stated in the notice in the absence of fraud. Notice shall be deemed to have been given to all stockholders who share an address if notice is given in accordance with the "householding" rules set forth in Rule 14a-3(e) under the Exchange Act and Section 233 of the DGCL.

(f) When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the place, if any, date and time thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting in accordance with Section 7.6(a), and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Section 2.4 Organization.

(a) Unless otherwise determined by the Board of Directors, meetings of stockholders shall be presided over by the Chairman of the Board of Directors, or in his or her absence, by the Chief Executive Officer or, in his or her absence, by another person designated by the Board of Directors. The Secretary of the Corporation, or in his or her absence, an Assistant Secretary, or in the absence of the Secretary and all Assistant Secretaries, a person whom the chairman of the meeting shall appoint, shall act as secretary of the meeting and keep a record of the proceedings thereof.

(b) The date and time of the opening and the closing of the polls for each matter upon which the stockholders shall vote at a meeting of stockholders shall be announced at the meeting. The Board of Directors may adopt such rules and regulations for the conduct of any meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of the meeting shall have the authority to adopt and enforce such rules and regulations for the conduct of any meeting of stockholders and the safety of those in attendance as, in the judgment of the chairman, are necessary, appropriate or convenient for the conduct of the meeting. Rules and regulations for the conduct of meetings of stockholders, whether adopted by the Board of Directors or by the chairman of the meeting, may include, without limitation, establishing: (i) an agenda or order of business for the meeting; (ii) rules and procedures for

maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies and such other persons as the chairman of the meeting shall permit; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; (v) limitations on the time allotted for consideration of each agenda item and for questions and comments by participants; (vi) regulations for the opening and closing of the polls for balloting and matters which are to be voted on by ballot (if any); and (vii) procedures (if any) requiring attendees to provide the Corporation advance notice of their intent to attend the meeting. Subject to any rules and regulations adopted by the Board of Directors, the chairman of the meeting may convene and, for any or no reason, from time to time, adjourn and/or recess any meeting of stockholders pursuant to Section 2.7. The chairman of the meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power to declare that a nomination or other business was not properly brought before the meeting if the facts warrant (including if a determination is made, pursuant to Section 2.10(c)(i) of these Bylaws, that a nomination or other business was not made or proposed, as the case may be, in accordance with Section 2.10 of these Bylaws), and if such chairman should so declare, such nomination shall be disregarded or such other business shall not be transacted.

Section 2.5 List of Stockholders. The Corporation shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; provided, however, that if the record date for determining the stockholders entitled to vote is less than 10 days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the 10th day before the meeting date. Such list shall be arranged in alphabetical order and shall show the address of each stockholder and the number of shares registered in the name of each stockholder. Nothing in this Section 2.5 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting at least 10 days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting; or (b) during ordinary business hours at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then a list of stockholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise required by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.5 or to vote in person or by proxy at any meeting of stockholders.

Section 2.6 Quorum. Except as otherwise required by law, the Certificate of Incorporation (including any Preferred Stock Designation) or these Bylaws, at any meeting of stockholders, a majority of the voting power of the stock outstanding and entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or series or classes or series is required, a majority of the voting power of the stock of such class or series or classes or series outstanding and entitled to vote on that matter, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to such matter. If a quorum is not present or represented at any meeting of stockholders, then the chairman of the meeting, or a majority of the voting power of the stock present in person or represented by proxy at the meeting and entitled to vote thereon, shall have power to adjourn or recess the meeting from time to time in accordance with Section 2.7, until a quorum is present or represented. Subject to applicable law, if a quorum initially is present at any meeting of stockholders, the stockholders may continue to transact business until adjournment or recess, notwithstanding the withdrawal of enough stockholders to leave less than a quorum, but if a quorum is not present at least initially, no business other than adjournment or recess may be transacted.

Section 2.7 Adjourned or Recessed Meeting. Any annual or special meeting of stockholders, whether or not a quorum is present, may be adjourned or recessed for any or no reason from time to time by the chairman of the meeting, subject to any rules and regulations adopted by the Board of Directors pursuant to Section 2.4(b). Any such meeting may be adjourned for any or no reason (and may be recessed if a quorum is not present or represented) from time to time by a majority of the voting power of the stock present in person or represented by proxy at the meeting and entitled to vote thereon. At any such adjourned or recessed meeting at which a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

Section 2.8 Voting; Proxies.

(a) Except as otherwise required by law or the Certificate of Incorporation (including any Preferred Stock Designation), each holder of stock of the Corporation entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of such stock held of record by such holder that has voting power upon the subject matter in question.

(b) Except as otherwise required by law, the Certificate of Incorporation (including any Preferred Stock Designation), these Bylaws or any law, rule or regulation applicable to the Corporation or its securities, at each meeting of stockholders at which a quorum is present, all corporate actions to be taken by vote of the stockholders shall be authorized by the affirmative vote of at least a majority of the voting power of the stock present in person or represented by proxy and entitled to vote on the subject matter, and where a separate vote by a class or series or classes or series is required, if a quorum of such class or series or classes or series is present, such act shall be authorized by the affirmative vote of at least a majority of the voting power of the stock of such class or series or classes or series present in person or represented by proxy and entitled to vote on the subject matter. Voting at meetings of stockholders need not be by written ballot.

(c) Every stockholder entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more persons authorized to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the Corporation a revocation of the proxy or an executed new proxy bearing a later date.

Section 2.9 Submission of Information by Director Nominees.

(a) To be eligible to be a nominee for election or re-election as a director of the Corporation, a person must deliver to the Secretary of the Corporation at the principal executive offices of the Corporation the following information:

(i) a written representation and agreement, which shall be signed by such person and pursuant to which such person shall represent and agree that such person: (A) consents to serving as a director if elected and to being named in the Corporation's proxy statement and form of proxy as a nominee, and currently intends to serve as a director for the full term for which such person is standing for election; (B) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity: (1) as to how the person, if elected as a director, will act or vote on any issue or question that has not been disclosed to the Corporation; or (2) that could limit or interfere with the person's ability to comply, if elected as a director, with such person's fiduciary duties under applicable law; (C) 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 service or action as a director or nominee that has not been disclosed to the Corporation; and (D) if elected as a director, will comply with all of the Corporation's corporate governance, conflict of interest, confidentiality, and stock

ownership and trading policies and guidelines, and any other Corporation policies and guidelines applicable to directors (which will be promptly provided following a request therefor); and

(ii) all completed and signed questionnaires prepared by the Corporation (including those questionnaires required of the Corporation's directors and any other questionnaire the Corporation determines is necessary or advisable to assess whether a nominee will satisfy any qualifications or requirements imposed by the Certificate of Incorporation or these Bylaws, any law, rule, regulation or listing standard that may be applicable to the Corporation, and the Corporation's corporate governance policies and guidelines) (all of the foregoing, "Questionnaires"). The Questionnaires will be promptly provided following a request therefor.

(b) A nominee for election or re-election as a director of the Corporation shall also provide to the Corporation such other information as it may reasonably request. The Corporation may request such additional information as necessary to permit the Corporation to determine the eligibility of such person to serve as a director of the Corporation, including information relevant to a determination whether such person can be considered an independent director.

(c) Notwithstanding any other provision of these Bylaws, if a stockholder has submitted notice of an intent to nominate a candidate for election or re-election as a director pursuant to Section 2.10, the Questionnaires described in Section 2.9(a)(ii) above and the additional information described in Section 2.9(b) above shall be considered timely if provided to the Corporation promptly upon request by the Corporation, but in any event within five business days after such request, and all information provided pursuant to this Section 2.9 shall be deemed part of the stockholder's notice submitted pursuant to Section 2.10.

Section 2.10 Notice of Stockholder Business and Nominations.

(a) Annual Meeting.

(i) Nominations of persons for election to the Board of Directors and the proposal of business other than nominations to be considered by the stockholders may be made at an annual meeting of stockholders only: (A) pursuant to the Corporation's notice of meeting (or any supplement thereto); (B) by or at the direction of the Board of Directors (or any authorized committee thereof); or (C) by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 2.10(a) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 2.10(a). For the avoidance of doubt, the foregoing clause (C) shall be the exclusive means for a stockholder to make nominations or propose other business at an annual meeting of stockholders (other than a proposal included in the Corporation's proxy statement pursuant to and in compliance with Rule 14a-8 under the Exchange Act).

(ii) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (C) of the foregoing paragraph, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and, in the case of business other than nominations, such business must be a proper subject for stockholder action. To be timely, a stockholder's notice must be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business (as defined in Section 2.10(c)(ii) below) on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 30 days after such anniversary date, or if no annual meeting was held in the preceding year, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the 10th day following the date on which public announcement (as defined in Section 2.10(c)(ii) below) of the date of such meeting is first made by the Corporation. In no event shall an adjournment or recess of an annual meeting, or a postponement of an annual meeting for which notice of the meeting has already been given to stockholders or a public announcement of the

meeting date has already been made, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. The number of nominees a stockholder may nominate for election at the annual meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of the beneficial owner) shall not exceed the number of directors to be elected at such annual meeting. For purposes of this Section 2.10, the 2021 annual meeting of stockholders shall be deemed to have been held on May 30, 2021. Such stockholder's notice shall set forth:

(A) as to each person whom the stockholder proposes to nominate for election or re-election as a director: (1) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Regulation 14A under the Exchange Act; and (2) the information required to be submitted by nominees pursuant to Section 2.9(a)(i) above and all completed and signed Questionnaires described in Section 2.9(a)(ii) above, which will be promptly provided following a request therefor;

(B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any substantial interest (within the meaning of Item 5 of Schedule 14A under the Exchange Act) in such business of such stockholder and the beneficial owner (within the meaning of Section 13(d) of the Exchange Act), if any, on whose behalf the proposal is made;

(C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made or the other business is proposed:

(1) the name and address of such stockholder, as they appear on the Corporation's books, and the name and address of such beneficial owner;

(2) the class or series and number of shares of stock of the Corporation which are owned of record by such stockholder and such beneficial owner as of the date of the notice, and a representation that the stockholder will notify the Corporation in writing within five business days after the record date for such meeting of the class or series and number of shares of stock of the Corporation owned of record by the stockholder and such beneficial owner as of the record date for the meeting; and

(3) a representation that the stockholder (or a qualified representative of the stockholder) intends to appear at the meeting to make such nomination or propose such business;

(D) as to the stockholder giving the notice or, if the notice is given on behalf of a beneficial owner on whose behalf the nomination is made or the other business is proposed, as to such beneficial owner, and if such stockholder or beneficial owner is an entity, as to each director, executive, managing member or control person of such entity (any such individual or control person, a "control person"):

(1) the class or series and number of shares of stock of the Corporation which are beneficially owned (as defined in Section 2.10(c)(ii) below) by such stockholder or beneficial owner and by any control person as of the date of the notice, and a representation that the stockholder will notify the Corporation in writing within five business days after the record date for such meeting of the class or series and number of shares of stock of the Corporation beneficially owned by such stockholder or beneficial owner and by any control person as of the record date for the meeting;

(2) a description of any agreement, arrangement or understanding with respect to the nomination or other business between or among such stockholder, beneficial owner or control person and any other person, including,

without limitation any agreements that would be required to be disclosed pursuant to Item 5 or Item 6 of Exchange Act Schedule 13D (regardless of whether the requirement to file a Schedule 13D is applicable) and a representation that the stockholder will notify the Corporation in writing within five business days after the record date for such meeting of any such agreement, arrangement or understanding in effect as of the record date for the meeting;

(3) a description of any agreement, arrangement or understanding (including, without limitation, any derivative or short positions, profit interests, options, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder, beneficial owner or control person, the effect or intent of which is to mitigate loss, manage risk or benefit from changes in the share price of any class or series of the Corporation's stock, or maintain, increase or decrease the voting power of the stockholder, beneficial owner or control person with respect to securities of the Corporation, and a representation that the stockholder will notify the Corporation in writing within five business days after the record date for such meeting of any such agreement, arrangement or understanding in effect as of the record date for the meeting;

(4) a representation whether the stockholder or the beneficial owner, if any, will engage in a solicitation with respect to the nomination or other business and, if so, the name of each participant in such solicitation (as defined in Item 4 of Schedule 14A under the Exchange Act) and whether such person intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to holders of shares representing at least 50% of the voting power of the stock entitled to vote generally in the election of directors in the case of a nomination, or holders of at least the percentage of the Corporation's stock required to approve or adopt the business to be proposed in the case of other business.

(iii) Notwithstanding anything in Section 2.10(a)(ii) above or Section 2.10(b) below to the contrary, if the record date for determining the stockholders entitled to vote at any meeting of stockholders is different from the record date for determining the stockholders entitled to notice of the meeting, a stockholder's notice required by this Section 2.10 shall set forth a representation that the stockholder will notify the Corporation in writing within five business days after the record date for determining the stockholders entitled to vote at the meeting, or by the opening of business on the date of the meeting (whichever is earlier), of the information required under clauses (ii)(C)(2) and (ii)(D)(1)-(3) of this Section 2.10(a), and such information when provided to the Corporation shall be current as of the record date for determining the stockholders entitled to vote at the meeting.

(iv) This Section 2.10(a) shall not apply to a proposal proposed to be made by a stockholder if the stockholder has notified the Corporation of his or her intention to present the proposal at an annual or special meeting only pursuant to and in compliance with Rule 14a-8 under the Exchange Act and such proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such meeting.

(v) Notwithstanding anything in this Section 2.10(a) to the contrary, in the event that the number of directors to be elected to the Board of Directors at an annual meeting is increased and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least 10 days prior to the last day a stockholder may deliver a notice in accordance with Section 2.10(a)(ii) above, a stockholder's notice required by this Section 2.10(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(b) Special Meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting: (i) by or at the direction of the Board of Directors (or any authorized committee thereof); or (ii) provided that one or more directors are to be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 2.10(b) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who delivers notice thereof in writing setting

forth the information required by Section 2.10(a) above and provides the additional information required by Section 2.9 above. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the notice required by this Section 2.10(b) shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or the 10th day following the date on which public announcement of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting is first made by the Corporation. The number of nominees a stockholder may nominate for election at the special meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such special meeting. In no event shall an adjournment, recess or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) General.

(i) Except as otherwise required by law, only such persons who are nominated in accordance with the procedures set forth in this Section 2.10 shall be eligible to be elected at any meeting of stockholders of the Corporation to serve as directors and only such other business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 2.10. Except as otherwise required by law, each of the Board of Directors or the chairman of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 2.10 (including whether a stockholder or beneficial owner solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in compliance with such stockholder's representation as required by clause (a)(ii)(D)(4) of this Section 2.10). If any proposed nomination or other business is not in compliance with this Section 2.10, then except as otherwise required by law, the chairman of the meeting shall have the power to declare that such nomination shall be disregarded or that such other business shall not be transacted. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, or otherwise determined by the Board of Directors or the chairman of the meeting, if the stockholder does not provide the information required under Section 2.9 or clauses (a)(ii)(C)(2) and (a)(ii)(D)(1)-(3) of this Section 2.10 to the Corporation within the time frames specified herein, any such nomination shall be disregarded and any such other business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, or otherwise determined by the Board of Directors or the chairman of the meeting, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or other business (whether pursuant to the requirements of these Bylaws or in accordance with Rule 14a-8 under the Exchange Act), such nomination shall be disregarded and such other business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. To be considered a qualified representative of a stockholder pursuant to the preceding sentence, a person must be a duly authorized officer, manager or partner of such stockholder or authorized by a writing executed by such stockholder (or a reliable reproduction of the writing) delivered to the Corporation prior to the making of such nomination or proposal at such meeting (and in any event not fewer than five days before the meeting) stating that such person is authorized to act for such stockholder as proxy at the meeting of stockholders.

(ii) For purposes of this Section 2.10, the "close of business" shall mean 6:00 p.m. local time at the principal executive offices of the Corporation on any calendar day, whether or not the day is a business day, and a "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the

Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act. For purposes of clause (a)(ii)(D)(1) of this Section 2.10, shares shall be treated as "beneficially owned" by a person if the person beneficially owns such shares, directly or indirectly, for purposes of Section 13(d) of the Exchange Act and Regulations 13D and 13G thereunder or has or shares pursuant to any agreement, arrangement or understanding (whether or not in writing): (A) the right to acquire such shares (whether such right is exercisable immediately or only after the passage of time or the fulfillment of a condition or both); (B) the right to vote such shares, alone or in concert with others; and/or (C) investment power with respect to such shares, including the power to dispose of, or to direct the disposition of, such shares.

(iii) Nothing in this Section 2.10 shall be deemed to affect any rights of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation (including any Preferred Stock Designation).

Section 2.11 Action by Written Consent.

(a) Prior to any time that Tim Vanderhook, Chris Vanderhook and Four Brothers 2 LLC collectively cease to beneficially own a majority of the combined voting power of the Common Stock (the "Triggering Event"), except as otherwise provided for or fixed pursuant to the Certificate of Incorporation (including any Preferred Stock Designation), any action required or permitted to be taken at any annual or special meeting of stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote, if a consent or consents, setting forth the action so taken, are signed by the holders of the outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. To be effective, such a consent must be delivered to the Corporation in accordance with Section 228(d) of the DGCL; provided, however, that the Corporation has not designated, and shall not designate, any information processing system for receiving such consents. No consent shall be effective to take the corporate action referred to therein unless consents signed by a sufficient number of holders to take action are delivered to the Corporation in accordance with this Section 2.11 within 60 days of the first date on which a consent is so delivered to the Corporation. Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent shall be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made, if evidence of such instruction or provision is provided to the Corporation. Unless otherwise provided, any such consent shall be revocable prior to its becoming effective.

(b) Prior to the Triggering Event, prompt notice of the taking of the corporate action without a meeting by less than unanimous consent shall be given to those stockholders who have not consented and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that consents signed by a sufficient number of stockholders to take the action were delivered to the Corporation in accordance with this Section 2.11.

(c) After the Triggering Event, except with respect to actions required or permitted to be taken solely by holders of Preferred Stock pursuant to the Certificate of Incorporation (including any Preferred Stock Designation), no action that is required or permitted to be taken by the stockholders of the Corporation may be effected by consent of stockholders in lieu of a meeting of stockholders.

Section 2.12 Inspectors of Election. Before any meeting of stockholders, the Corporation may, and shall if required by law, appoint one or more inspectors of election to act at the meeting and make a written report thereof. Inspectors may be employees of the Corporation. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the chairman of the meeting may, and shall if required by law, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Inspectors need not be stockholders. No director or nominee for the office of director at an election shall be appointed as an inspector at such election.

Such inspectors shall:

(a) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the validity of proxies and ballots;

(b) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors;

(c) count and tabulate all votes and ballots; and

(d) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots.

Section 2.13 Meetings by Remote Communications. The Board of Directors may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication in accordance with Section 211(a)(2) of the DGCL. If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication: (a) participate in a meeting of stockholders; and (b) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that: (i) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder; (ii) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and (iii) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

Section 2.14 Delivery to the Corporation. Whenever this Article II requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), the Corporation shall not be required to accept delivery of such document or information unless the document or information is in writing exclusively (and not in an electronic transmission) and delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested.

ARTICLE III
DIRECTORS

Section 3.1 Powers. Except as otherwise required by the DGCL or as provided in the Certificate of Incorporation (including any Preferred Stock Designation), the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities these Bylaws expressly confer upon it, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law, the Certificate of Incorporation (including any Preferred Stock Designation) or these Bylaws required to be exercised or done by the stockholders.

Section 3.2 Number and Election. Except as otherwise provided for or fixed pursuant to the Certificate of Incorporation (including any Preferred Stock Designation), the Board of Directors shall consist of not fewer than 3 nor more than 11 directors, the exact number to be determined from time to time solely by resolution of the Board of Directors.

At any meeting of stockholders at which directors are to be elected, directors shall be elected by a plurality of the votes cast.

Directors need not be stockholders unless so required by the Certificate of Incorporation (including any Preferred Stock Designation) or these Bylaws, wherein other qualifications for directors may be prescribed.

Section 3.3 Vacancies and Newly Created Directorships.

(a) Prior to the Triggering Event, subject to the rights of the holders of any outstanding series of Preferred Stock, and unless otherwise required by law, newly created directorships resulting from any increase in the authorized number of directors and any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause may be filled by the affirmative vote of (a) a majority of the remaining directors then in office, even though less than a quorum, or by the sole remaining director or (b) at least a majority of the voting power of the stock outstanding and entitled to vote thereon, and any director so chosen shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

(b) After the Triggering Event, subject to the rights of the holders of any outstanding series of Preferred Stock, and unless otherwise required by law, newly created directorships resulting from any increase in the authorized number of directors and any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum, or by the sole remaining director, and any director so chosen shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

(c) No decrease in the authorized number of directors shall shorten the term of any incumbent director.

Section 3.4 Resignations and Removal.

(a) Any director may resign at any time upon notice given in writing or by electronic transmission to the Board of Directors, the Chairman of the Board of Directors or the Secretary of the Corporation. Such resignation shall take effect upon delivery, unless the resignation specifies a later effective date or time or an effective date or time determined upon the happening of an event or events. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(b) Prior to the Triggering Event, any director, or the entire Board of Directors, may be removed, with or without cause, by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon; provided, however, that whenever the holders of any class or series are entitled to elect one or more directors by the Certificate of Incorporation (including any Preferred Stock Designation), with respect to the removal without cause of a director or directors so elected, the vote of the holders of the outstanding shares of that class or series and not the vote of the outstanding shares as a whole shall apply.

(c) After the Triggering Event, except for such additional directors, if any, as are elected by the holders of any series of Preferred Stock as provided for or fixed pursuant to the Certificate of Incorporation (including any Preferred Stock Designation), any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon.

Section 3.5 Regular Meetings. Regular meetings of the Board of Directors shall be held at such place or places, within or without the State of Delaware, on such date or dates and at such time or times, as shall have been established by the Board of Directors and publicized among all directors. A notice of each regular meeting shall not be required.

Section 3.6 Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairman of the Board of Directors, the Chief Executive Officer or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place, within or without the State of Delaware, date and time of such meetings. Notice of each such meeting shall be given to each director, if by mail, addressed to such director at his or her residence or usual place of business, at least five days before the day on which such meeting is to be held, or shall be sent to such director by electronic transmission, or be delivered personally or by telephone, in each case at least 24 hours prior to the time set for such meeting. A notice of special meeting need not state the purpose of such meeting, and, unless indicated in the notice thereof, any and all business may be transacted at a special meeting.

Section 3.7 Participation in Meetings by Conference Telephone. Members of the Board of Directors, or of any committee thereof, may participate in a meeting of such Board of Directors or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

Section 3.8 Quorum and Voting. Except as otherwise required by law, the Certificate of Incorporation or these Bylaws, a majority of the total number of directors then authorized (hereinafter referred to as the "Whole Board") shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, and the vote of a majority of the directors present at a duly held meeting at which a quorum is present shall be the act of the Board of Directors. The chairman of the meeting or a majority of the directors present may adjourn the meeting to another time and place whether or not a quorum is present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.9 Board of Directors Action by Written Consent Without a Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee thereof, may be taken without a meeting, provided that all members of the Board of Directors or committee, as the case may be, consent in writing or by electronic transmission to such action. After an action is taken, the consent or consents relating thereto shall be filed with the minutes or proceedings of the Board of Directors or committee in the same paper or electronic form as the minutes are maintained. Any person (whether or not then a director) may provide, whether through instruction to an agent or otherwise, that a consent to action shall be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming effective.

Section 3.10 Chairman of the Board. The Chairman of the Board shall preside at meetings of stockholders (unless otherwise determined by the Board of Directors) and at meetings of directors and shall perform such other duties as the Board of Directors may from time to time determine. If the Chairman of the Board is not present at a meeting of the Board of Directors, another director chosen by the Board of Directors shall preside.

Section 3.11 Rules and Regulations. The Board of Directors shall adopt such rules and regulations not inconsistent with the provisions of law, the Certificate of Incorporation or these Bylaws for the conduct of its meetings and management of the affairs of the Corporation as the Board of Directors shall deem proper.

Section 3.12 Fees and Compensation of Directors. Unless otherwise restricted by the Certificate of Incorporation, directors may receive such compensation, if any, for their services on the Board of Directors and its committees, and such reimbursement of expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 3.13 Emergency Bylaws. This Section 3.13 shall be operative during any emergency condition as contemplated by Section 110 of the DGCL (an "Emergency"), notwithstanding any different or conflicting provisions in these Bylaws, the Certificate of Incorporation or the DGCL. In the event of any Emergency, or

other similar emergency condition, as a result of which a quorum of the Board of Directors or a standing committee of the Board of Directors cannot readily be convened for action, the director or directors in attendance at a meeting of the Board of Directors or a standing committee thereof shall constitute a quorum. Such director or directors in attendance may further take action to appoint one or more of themselves or other directors to membership on any standing or temporary committees of the Board of Directors as they shall deem necessary and appropriate. Except as the Board may otherwise determine, during any Emergency, the Corporation and its directors and officers, may exercise any authority and take any action or measure contemplated by Section 110 of the DGCL.

ARTICLE IV
COMMITTEES

Section 4.1 Committees of the Board of Directors. The Board of Directors may designate one or more committees, each such committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent permitted by law and provided in the resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval; or (b) adopting, amending or repealing any bylaw of the Corporation. All committees of the Board of Directors shall keep minutes of their meetings and shall report their proceedings to the Board of Directors when requested or required by the Board of Directors.

Section 4.2 Meetings and Action of Committees. Unless the Board of Directors provides otherwise by resolution, any committee of the Board of Directors may adopt, alter and repeal such rules and regulations not inconsistent with the provisions of law, the Certificate of Incorporation or these Bylaws for the conduct of its meetings as such committee may deem proper. A majority of the directors then serving on a committee shall constitute a quorum for the transaction of business by the committee except as otherwise required by law, the Certificate of Incorporation or these Bylaws, and except as otherwise provided in a resolution of the Board of Directors; provided, however, that in no case shall a quorum be less than one-third of the directors then serving on the committee. Unless the Certificate of Incorporation, these Bylaws or a resolution of the Board of Directors requires a greater number, the vote of a majority of the members of a committee present at a meeting at which a quorum is present shall be the act of the committee.

ARTICLE V
OFFICERS

Section 5.1 Officers. The officers of the Corporation shall consist of a Chief Executive Officer, a Chief Operating Officer, a Chief Financial Officer, a Secretary, a Treasurer, a Controller (the "Designated Officers") and may consist of a Chief Operating Officer and one or more Vice Presidents and such other officers as the Board of Directors may from time to time determine, each of whom shall be elected by the Board of Directors, each to have such authority, functions or duties as set forth in these Bylaws or as determined by the Board of Directors. Each Designated Officer and any Chief Operating Officer shall be elected by the Board of Directors and shall hold office for such term as may be prescribed by the Board of Directors and until such person's successor shall

have been duly elected and qualified, or until such person's earlier death, disqualification, resignation or removal. Any other officer may be elected by the Board or appointed by the Chief Executive Officer. Any number of offices may be held by the same person; provided, however, that no officer shall execute, acknowledge or verify any instrument in more than one capacity if such instrument is required by law, the Certificate of Incorporation or these Bylaws to be executed, acknowledged or verified by two or more officers. The Board of Directors may require any officer, agent or employee to give security for the faithful performance of his or her duties.

Section 5.2 Compensation. The salaries of the officers of the Corporation and the manner and time of the payment of such salaries shall be fixed and determined by the Board of Directors or by a duly authorized officer and may be altered by the Board of Directors from time to time as it deems appropriate, subject to the rights, if any, of such officers under any contract of employment.

Section 5.3 Removal, Resignation and Vacancies. Any officer of the Corporation elected by the Board may be removed, with or without cause, by the Board of Directors, without prejudice to the rights, if any, of such officer under any contract to which it is a party. Any other officer of the Corporation may be removed, with or without cause, by the Board of Directors or by a duly authorized officer, without prejudice to the rights, if any, of such officer under any contract to which it is a party. Any officer may resign at any time upon notice given in writing or by electronic transmission to the Corporation, without prejudice to the rights, if any, of the Corporation under any contract to which such officer is a party. If any vacancy occurs in any office of the Corporation, the Board of Directors may elect a successor to fill such vacancy for the remainder of the unexpired term and until a successor shall have been duly elected and qualified.

Section 5.4 Chief Executive Officer. The Chief Executive Officer shall have general supervision and direction of the business and affairs of the Corporation, shall be responsible for corporate policy and strategy, and shall report directly to the Board of Directors. Unless otherwise provided in these Bylaws or determined by the Board of Directors, all other officers of the Corporation shall report directly to the Chief Executive Officer or as otherwise determined by the Chief Executive Officer. The Chief Executive Officer, if not the Chairman of the Board of Directors, shall, if present and in the absence of the Chairman of the Board of Directors, preside at meetings of the stockholders.

Section 5.5 Chief Operating Officer. The Chief Operating Officer shall have general responsibility for the management and control of the operations of the Corporation. The Chief Operating Officer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors or the Chief Executive Officer may from time to time determine.

Section 5.6 Chief Financial Officer. The Chief Financial Officer shall exercise all the powers and perform the duties of the office of the chief financial officer and in general have overall supervision of the financial operations of the Corporation. The Chief Financial Officer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer or the Chief Operating Officer may from time to time determine.

Section 5.7 Vice Presidents. Each Vice President shall have such powers and duties as shall be prescribed by his or her superior officer, the Chief Executive Officer or the Chief Operating Officer. A Vice President shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer, the Chief Operating Officer or another duly authorized officer may from time to time determine.

Section 5.8 Treasurer. The Treasurer shall supervise and be responsible for all the funds and securities of the Corporation, the deposit of all monies and other valuables to the credit of the Corporation in depositories of the Corporation, borrowings and compliance with the provisions of all indentures, agreements and instruments governing such borrowings to which the Corporation is a party, the disbursement of funds of the Corporation and

the investment of its funds, and in general shall perform all of the duties incident to the office of the Treasurer. The Treasurer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer, the Chief Operating Officer or the Chief Financial Officer may from time to time determine.

Section 5.9 Controller. The Controller shall be the chief accounting officer of the Corporation. The Controller shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer or the Treasurer may from time to time determine.

Section 5.10 Secretary. The powers and duties of the Secretary are: (i) to act as Secretary at all meetings of the Board of Directors, of the committees of the Board of Directors and of the stockholders and to record the proceedings of such meetings in a book or books to be kept for that purpose; (ii) to see that all notices required to be given by the Corporation are duly given and served; (iii) to act as custodian of the seal of the Corporation and affix the seal or cause it to be affixed to all certificates of stock of the Corporation and to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws; (iv) to have charge of the books, records and papers of the Corporation and see that the reports, statements and other documents required by law to be kept and filed are properly kept and filed; and (v) to perform all of the duties incident to the office of Secretary. The Secretary shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer or the Chief Operating Officer may from time to time determine.

Section 5.11 Additional Matters. The Chief Executive Officer and the Chief Financial Officer of the Corporation shall have the authority to designate employees of the Corporation to have the title of Vice President, Assistant Vice President, Assistant Treasurer or Assistant Secretary. Any employee so designated shall have the powers and duties determined by the officer making such designation. The persons upon whom such titles are conferred shall not be deemed officers of the Corporation unless elected by the Board of Directors.

Section 5.12 Checks; Drafts; Evidences of Indebtedness. From time to time, the Board of Directors shall determine the method, and designate (or authorize officers of the Corporation to designate) the person or persons who shall have authority, to sign or endorse all checks, drafts, other orders for payment of money and notes, bonds, debentures or other evidences of indebtedness that are issued in the name of or payable by the Corporation, and only the persons so authorized shall sign or endorse such instruments.

Section 5.13 Corporate Contracts and Instruments; How Executed. Except as otherwise provided in these Bylaws, the Board of Directors may determine the method, and designate (or authorize officers of the Corporation to designate) the person or persons who shall have authority to enter into any contract or execute any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless so authorized, or within the power incident to a person's office or other position with the Corporation, no person shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 5.14 Signature Authority. Unless otherwise determined by the Board of Directors or otherwise provided by law or these Bylaws, contracts, evidences of indebtedness and other instruments or documents of the Corporation may be executed, signed or endorsed: (i) by the Chief Executive Officer or the Chief Operating Officer; or (ii) by the Chief Financial Officer, any Vice President, Treasurer, Secretary or Controller, in each case only with regard to such instruments or documents that pertain to or relate to such person's duties or business functions.

Section 5.15 Action with Respect to Securities of Other Corporations or Entities. The Chief Executive Officer or any other officer of the Corporation authorized by the Board of Directors or the Chief Executive Officer is authorized to vote, represent, and exercise on behalf of the Corporation all rights incident to any and all shares or

other equity interests of any other corporation or entity or corporations or entities, standing in the name of the Corporation. The authority herein granted may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by the person having such authority.

Section 5.16 Delegation. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding the foregoing provisions of this Article V.

ARTICLE VI
INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

Section 6.1 Right to Indemnification.

(a) Each person who was or is a party or is threatened to be made a party to, or was or is otherwise involved in, any action, suit, arbitration, alternative dispute resolution mechanism, investigation, inquiry, judicial, administrative or legislative hearing, or any other threatened, pending or completed proceeding, whether brought by or in the right of the Corporation or otherwise, including any and all appeals, whether of a civil, criminal, administrative, legislative, investigative or other nature (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation or while a director or officer of the Corporation is or was serving at the request of the Corporation as a director, officer, employee, agent or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), or by reason of anything done or not done by him or her in any such capacity, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes, penalties and amounts paid in settlement by or on behalf of the indemnitee) actually and reasonably incurred by such indemnitee in connection therewith, all on the terms and conditions set forth in these Bylaws; provided, however, that, except as otherwise required by law or provided in Section 6.4 with respect to suits to enforce rights under this Article VI, the Corporation shall indemnify any such indemnitee in connection with a proceeding, or part thereof, voluntarily initiated by such indemnitee (including claims and counterclaims, whether such counterclaims are asserted by: (i) such indemnitee; or (ii) the Corporation in a proceeding initiated by such indemnitee) only if such proceeding, or part thereof, was authorized or ratified by the Board of Directors or the Board of Directors otherwise determines that indemnification or advancement of expenses is appropriate.

(b) To receive indemnification under this Article VI, an indemnitee shall submit a written request to the Secretary of the Corporation. Such request shall include documentation or information that is necessary to determine the entitlement of the indemnitee to indemnification and that is reasonably available to the indemnitee. Upon receipt by the Secretary of the Corporation of such a written request, unless indemnification is required by Section 6.3, the entitlement of the indemnitee to indemnification shall be determined by the following person or persons who shall be empowered to make such determination, as selected by the Board of Directors (except with respect to clause (v) of this Section 6.1(b)): (i) the Board of Directors by a majority vote of the directors who are not parties to such proceeding, whether or not such majority constitutes a quorum; (ii) a committee of such directors designated by a majority vote of such directors, whether or not such majority constitutes a quorum; (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the indemnitee; (iv) the stockholders of the Corporation; or (v) in the event that a change of control (as defined below) has occurred, by independent legal counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the indemnitee. The determination of entitlement to indemnification shall be made and, unless a contrary determination is made, such indemnification shall be paid in full by the Corporation not later than 60 days after receipt by the Secretary of the Corporation of a written request for indemnification. For purposes of this Section 6.1(b), a "change of control" will be deemed to have occurred if, with respect to any particular 24-month period, the individuals who, at the beginning of such 24-month period, constituted the Board of Directors (the "incumbent board"), cease for any

reason to constitute at least a majority of the Board of Directors; provided, however, that any individual becoming a director subsequent to the beginning of such 24-month period whose election, or nomination for election by the stockholders of the Corporation, was approved by a vote of at least a majority of the directors then comprising the incumbent board shall be considered as though such individual were a member of the incumbent board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board of Directors.

Section 6.2 Right to Advancement of Expenses.

(a) In addition to the right to indemnification conferred in Section 6.1, an indemnitee shall, to the fullest extent permitted by law, also have the right to be paid by the Corporation the expenses (including attorneys' fees) incurred in defending any proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that an advancement of expenses shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision of a court of competent jurisdiction from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Article VI or otherwise.

(b) To receive an advancement of expenses under this Section 6.2, an indemnitee shall submit a written request to the Secretary of the Corporation. Such request shall reasonably evidence the expenses incurred by the indemnitee and shall include or be accompanied by the undertaking required by Section 6.2(a). Each such advancement of expenses shall be made within 20 days after the receipt by the Secretary of the Corporation of a written request for advancement of expenses.

(c) Notwithstanding the foregoing Section 6.2(a), the Corporation shall not make or continue to make advancements of expenses to an indemnitee (except by reason of the fact that the indemnitee is or was a director of the Corporation, in which event this Section 6.2(c) shall not apply) if a determination is reasonably made that the facts known at the time such determination is made demonstrate clearly and convincingly that the indemnitee acted in bad faith or in a manner that the indemnitee did not reasonably believe to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal proceeding, that the indemnitee had reasonable cause to believe his or her conduct was unlawful. Such determination shall be made: (i) by the Board of Directors by a majority vote of directors who are not parties to such proceeding, whether or not such majority constitutes a quorum; (ii) by a committee of such directors designated by a majority vote of such directors, whether or not such majority constitutes a quorum; or (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the indemnitee.

Section 6.3 Indemnification for Successful Defense. To the extent that an indemnitee has been successful on the merits or otherwise in defense of any proceeding (or in defense of any claim, issue or matter therein), such indemnitee shall be indemnified under this Section 6.3 against expenses (including attorneys' fees) actually and reasonably incurred in connection with such defense. Indemnification under this Section 6.3 shall not be subject to satisfaction of a standard of conduct, and the Corporation may not assert the failure to satisfy a standard of conduct as a basis to deny indemnification or recover amounts advanced, including in a suit brought pursuant to Section 6.4 (notwithstanding anything to the contrary therein); provided, however, that, any indemnitee who is not a current or former director or officer (as such term is defined in the final sentence of Section 145(c)(1) of the DGCL) shall be entitled to indemnification under Section 6.1 and this Section 6.3 only if such indemnitee has satisfied the standard of conduct required for indemnification under Section 145(a) or Section 145(b) of the DGCL.

Section 6.4 Right of Indemnitee to Bring Suit. In the event that a determination is made that the indemnitee is not entitled to indemnification or if payment is not timely made following a determination of entitlement to indemnification pursuant to Section 6.1(b), if a request for indemnification under Section 6.3 is not paid in full by the Corporation within 60 days after a written request has been received by the Secretary of the Corporation, or if an advancement of expenses is not timely made under Section 6.2(b), the indemnitee may at any time thereafter bring suit against the Corporation in a court of competent jurisdiction in the State of Delaware seeking an adjudication of entitlement to such indemnification or advancement of expenses. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit to the fullest extent permitted by law. In any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that the indemnitee has not met any applicable standard of conduct for indemnification set forth in Section 145(a) or Section 145(b) of the DGCL. Further, in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that the indemnitee has not met any applicable standard of conduct for indemnification set forth in Section 145(a) or Section 145(b) of the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met such applicable standard of conduct, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under applicable law, this Article VI or otherwise shall be on the Corporation.

Section 6.5 Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any law, agreement, vote of stockholders or disinterested directors, provisions of a certificate of incorporation or bylaws, or otherwise.

Section 6.6 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Section 6.7 Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent and in the manner permitted by law, and to the extent authorized from time to time, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation.

Section 6.8 Nature of Rights. The rights conferred upon indemnitees in this Article VI shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director or officer and shall inure to the benefit of the indemnitee’s heirs, executors and administrators. Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, alteration or repeal.

Section 6.9 Settlement of Claims. Notwithstanding anything in this Article VI to the contrary, the Corporation shall not be liable to indemnify any indemnitee under this Article VI for any amounts paid in settlement of any

proceeding effected without the Corporation's written consent, which consent shall not be unreasonably withheld.

Section 6.10 Subrogation. In the event of payment under this Article VI, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the indemnitee (excluding insurance obtained on the indemnitee's own behalf), and the indemnitee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Corporation effectively to bring suit to enforce such rights.

Section 6.11 Severability. If any provision or provisions of this Article VI shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law: (a) the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article VI (including, without limitation, all portions of any paragraph of this Article VI containing any such provision held to be invalid, illegal or unenforceable, that are not by themselves invalid, illegal or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article VI (including, without limitation, all portions of any paragraph of this Article VI 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 of the parties that the Corporation provide protection to the indemnitee to the fullest extent set forth in this Article VI.

ARTICLE VII
CAPITAL STOCK

Section 7.1 Certificates of Stock. The shares of the Corporation shall be represented by certificates; provided, however, that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the Corporation, including, without limitation, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Secretary, or an Assistant Treasurer or Assistant Secretary certifying the number of shares owned by such holder in the Corporation. Any or all such signatures may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Section 7.2 Special Designation on Certificates. If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the registered owner thereof shall be given a notice, in writing or by electronic transmission, containing the information required to be set forth or stated on certificates pursuant to this Section 7.2 or Section 151, 156, 202(a) or 218(a) of the DGCL or with respect to this Section 7.2 and Section 151 of the DGCL a statement that the Corporation will furnish

without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

Section 7.3 Transfers of Stock. Transfers of shares of stock of the Corporation shall be made only on the books of the Corporation upon authorization by the registered holder thereof or by such holder's attorney thereunto authorized by a power of attorney duly executed and filed with the Secretary of the Corporation or a transfer agent for such stock, and if such shares are represented by a certificate, upon surrender of the certificate or certificates for such shares properly endorsed or accompanied by a duly executed stock transfer power and the payment of any taxes thereon; provided, however, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer.

Section 7.4 Lost Certificates. The Corporation may issue a new share certificate or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate or the owner's legal representative to give the Corporation a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares. The Board of Directors may adopt such other provisions and restrictions with reference to lost certificates, not inconsistent with applicable law, as it shall in its discretion deem appropriate.

Section 7.5 Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by law.

Section 7.6 Record Date for Determining Stockholders.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjourned meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than 60 nor less than 10 days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjourned meeting; provided, however, that the Board of Directors may fix a new record date for the determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 days prior to such action. If

no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(c) Prior to the Triggering Event, unless otherwise restricted by the Certificate of Incorporation (including any Preferred Stock Designation), in order that the Corporation may determine the stockholders entitled to express consent to corporate action without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to express consent to corporate action without a meeting, when no prior action of the Board of Directors is required by law, shall be the first date on which a signed consent setting forth the action taken or proposed to be taken was delivered to the Corporation in accordance with Section 2.11. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to express consent to corporate action without a meeting, if prior action by the Board of Directors is required by law, shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 7.7 Regulations. To the extent permitted by applicable law, the Board of Directors may make such additional rules and regulations as it may deem expedient concerning the issue, transfer and registration of shares of stock of the Corporation.

Section 7.8 Waiver of Notice. Whenever notice is required to be given under any provision of the DGCL or the Certificate of Incorporation or these Bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, the Board of Directors or a committee of the Board of Directors need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate of Incorporation or these Bylaws.

ARTICLE VIII
GENERAL MATTERS

Section 8.1 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January of each year and end on the last day of December of the same year, or shall extend for such other 12 consecutive months as the Board of Directors may designate.

Section 8.2 Corporate Seal. The Board of Directors may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary of the Corporation. If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by an Assistant Secretary or Assistant Treasurer.

Section 8.3 Reliance upon Books, Reports and Records. Each director and each member of any committee designated by the Board of Directors shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 8.4 Subject to Law and Certificate of Incorporation. All powers, duties and responsibilities provided for in these Bylaws, whether or not explicitly so qualified, are qualified by the Certificate of Incorporation (including any Preferred Stock Designation) and applicable law.

Section 8.5 Electronic Signatures, etc. Except as otherwise required by the Certificate of Incorporation (including as otherwise required by any Preferred Stock Designation) or these Bylaws (including, without limitation, as otherwise required by Section 2.14), any document, including, without limitation, any consent, agreement, certificate or instrument, required by the DGCL, the Certificate of Incorporation (including any Preferred Stock Designation) or these Bylaws to be executed by any officer, director, stockholder, employee or agent of the Corporation may be executed using a facsimile or other form of electronic signature to the fullest extent permitted by applicable law. All other contracts, agreements, certificates or instruments to be executed on behalf of the Corporation may be executed using a facsimile or other form of electronic signature to the fullest extent permitted by applicable law. The terms "electronic mail," "electronic mail address," "electronic signature" and "electronic transmission" as used herein shall have the meanings ascribed thereto in the DGCL.

ARTICLE IX
AMENDMENTS

Section 9.1 Amendments. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized to adopt, amend or repeal these Bylaws. Except as otherwise provided in the Certificate of Incorporation (including the terms of any Preferred Stock Designation that provides for a greater or lesser vote) or these Bylaws, and in addition to any other vote required by law, the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, shall be required for the stockholders to adopt, amend or repeal, or adopt any provision inconsistent with, any provision of these Bylaws.

The foregoing Bylaws were adopted by the Board of Directors effective February 9, 2021.

CERTIFICATE OF FORMATION

OF

VIANT TECHNOLOGY INC.
(a Texas corporation)

Viant Technology Inc., a for-profit corporation organized and existing under the laws of the State of Texas (the "Corporation"), hereby certifies as follows:

ARTICLE I
NAME

The name of the Corporation is Viant Technology Inc. The Corporation is a for-profit corporation.

ARTICLE II
CONVERTING ENTITY; AGENT

The Corporation is being formed pursuant to a plan of conversion. The converting entity is Viant Technology Inc., a corporation formed under the laws of the State of Delaware on October 9, 2020. The mailing address of the converting entity is 2722 Michelson Dr., Ste 100, Irvine, CA 92612.

The address of the Corporation's initial registered office in the State of Texas is 1999 Bryan Street, Suite 900, Dallas, Texas 75201. The name of its initial registered agent at such address is CT Corporation System. The initial mailing address of the Corporation is 2722 Michelson Dr., Ste 100, Irvine, CA 92612.

ARTICLE III
PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Texas Business Organizations Code (the "TBOC"), as it now exists or may hereafter be amended or supplemented, or any successor statute thereto.

ARTICLE IV
STOCK

Section 4.1 Authorized Stock. The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 610,000,000, of which 450,000,000 shall be designated as Class A Common Stock, par value $0.001 per share (the "Class A Common Stock"), 150,000,000 shall be designated as Class B Common Stock, par value $0.001 per share (the "Class B Common Stock", and together with the Class A Common Stock, the "Common Stock"), and 10,000,000 shall be designated as Preferred Stock, par value $0.001 per share (the "Preferred Stock").

Except as otherwise required by this Certificate of Formation (including any Preferred Stock Resolution), and notwithstanding any provision of the TBOC to the contrary, (a) all classes or series of stock are entitled to vote as a single class or series, and separate voting by class or series is not required, for the purpose of approving

any matter, including in connection with any "fundamental action" or "fundamental business transaction" as defined in the TBOC, and (b) the approval of a "fundamental action" (other than an amendment to this Certificate of Formation, which shall require the vote set forth in Section 9.1) or "fundamental business transaction" as each such term is defined in the TBOC requires the affirmative vote of the holders of at least a majority of the voting power of all of the outstanding shares of stock entitled to vote thereon, voting together as a single class; provided, that, if the TBOC is amended to authorize corporate action implementing the following voting standard, the approval of any such fundamental action or fundamental business transaction shall thereafter require the affirmative vote of a majority of the votes cast by the holders of then-outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class. If, pursuant to the immediately preceding sentence, all classes or series of capital stock of the Corporation are only entitled to vote as a single class for purposes of approving a matter, and separate voting by class or series is not required, shares of a class or series of shares that do not otherwise have the right to vote under this Certificate of Formation shall be treated as having no votes in the vote as a single class on that matter, in accordance with TBOC Section 21.364(e-1). There shall be no cumulative voting.

Section 4.2 Common Stock.

(a) Except as otherwise expressly provided herein or as required by the TBOC, the holders of shares of Class A Common Stock and Class B Common Stock shall vote together as one class on all matters (including the election of directors) submitted to a vote of the shareholders of the Corporation. Except as otherwise expressly provided herein or required by the TBOC, each holder of Class A Common Stock shall be entitled to one vote for each share of Class A Common Stock held of record by such holder on all matters on which shareholders generally are entitled to vote and each holder of Class B Common Stock shall be entitled to one vote for each share of Class B Common Stock held of record by such holder on all matters on which shareholders generally are entitled to vote; provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate of Formation, including any statement of resolution relating to any series of Preferred Stock (each hereinafter referred to as a "Preferred Stock Resolution"), that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Formation (including any Preferred Stock Resolution).

(b) Dividends. Subject to the rights of the holders of any outstanding series of Preferred Stock, the holders of shares of Class A Common Stock shall be entitled to receive dividends to the extent permitted by law when, as and if declared by the Board of Directors. Except as otherwise provided under this Certificate of Formation, dividends and other distributions shall not be declared or paid in respect of Class B Common Stock.

(c) Liquidation. Upon the dissolution, liquidation or winding up of the Corporation, subject to the rights of the holders of any outstanding series of Preferred Stock, the holders of shares of Class A Common Stock shall be entitled to receive the assets of the Corporation available for distribution to its shareholders ratably in proportion to the number of shares held by them. Holders of shares of Class B Common Stock shall not be entitled to receive any assets upon dissolution, liquidation or winding up of the Corporation.

Section 4.3 Preferred Stock. The Preferred Stock may be issued from time to time in one or more series. Subject to limitations prescribed by law and the provisions of this Article IV (including any Preferred Stock Resolution), the Board of Directors is hereby authorized to provide by resolution and by causing the filing of a Preferred Stock Resolution for the issuance of the shares of Preferred Stock in one or more series, and to establish from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences, and relative, participating, optional or other rights, if any, and the qualifications, limitations or restrictions, if any, of the shares of each such series.

Section 4.4 No Class Vote on Changes in Authorized Number of Shares of Stock. Subject to the rights of the holders of any outstanding series of Preferred Stock, the number of authorized shares of Common Stock or

Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of at least a majority of the voting power of the capital stock then-outstanding and entitled to vote thereon, voting as a single class (or, if the TBOC is amended to authorize corporate action implementing the following voting standard, by the affirmative vote of a majority of the votes cast by the holders of then-outstanding shares of capital stock of the Corporation entitled to vote thereon), unless an additional vote of any such holder or group of holders is required pursuant to this Certificate of Formation (including any Preferred Stock Resolution).

Section 4.5 No Redemption; Cancellation. The Common Stock is not redeemable. The Class B Common Stock will be automatically cancelled upon the exchange of a Class B Unit (as defined herein) for a share of Class A Common Stock (or payment of the cash equivalent in respect thereof) on and subject to the terms and conditions contemplated by Article XII of the Second Amended and Restated Limited Liability Company Agreement of Viant Technology LLC, as the same may be amended, modified, supplemented and/or restated from time to time (the "LLC Agreement").

Section 4.6 No Preemptive, Subscription or Conversion Rights. No holder of shares of Common Stock, solely by virtue of such holder's status as such, shall be entitled to preemptive, subscription or conversion rights.

Section 4.7 Exchange.

(a) Viant Technology LLC ("Viant LLC") has issued units designated as "Class B Units" (each, a "Class B Unit") pursuant to the terms and subject to the conditions of the LLC Agreement. Each holder of Class B Units is referred to herein as a "Class B Holder."

(b) Pursuant to and subject to the terms of the LLC Agreement, each Class B Holder has the right to surrender a Class B Unit to Viant LLC, together with the surrender of one share of Class B Common Stock to the Corporation, in exchange for the issuance of one fully paid and nonassessable share of Class A Common Stock (or payment of the cash equivalent in respect thereof) on and subject to the terms and conditions set forth herein and in the LLC Agreement.

Section 4.8 Cancellation of Class B Common Stock. If any outstanding share of Class B Common Stock shall cease to be held by a concurrent holder of a Class B Unit (including a transferee of a Class B Unit), such share shall automatically and without further action on the part of the Corporation or any holder of Class B Common Stock be transferred to the Corporation and upon such transfer shall be automatically canceled and restored to the status of an authorized but unissued share of Class B Common Stock of the Corporation.

Section 4.9 Further Issuances of Class B Common Stock. No shares of Class B Common Stock shall be issued at any time after the filing and effectiveness of this Certificate of Formation except to a Class B Holder in a number necessary to maintain a one-to-one ratio between the number of Class B Units and the number of shares of Class B Common Stock outstanding.

Section 4.10 Reservation of Stock. The Corporation will at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, solely for the purpose of effecting the exchange of Class B Units, such number of shares of Class A Common Stock as will from time to time be sufficient to effect the exchange of all outstanding Class B Units for Class A Common Stock.

Section 4.11 Protective Provisions. So long as any shares of Class B Common Stock remain outstanding, the Corporation will not, whether by merger, consolidation or otherwise, amend, alter, repeal or waive Section 4.7, Section 4.10, this Section 4.11 or Section 4.12 (or adopt any provision inconsistent therewith), without first obtaining the approval of the holders of a majority of the then-outstanding shares of Class B Common Stock, voting as a separate class, in addition to any other vote required by the TBOC, this Certificate of Formation or the Corporation's Bylaws, as the same may be amended or restated from time to time (the "Bylaws").

Section 4.12 Reclassifications, Mergers and Other Transactions.

(a) If the Corporation in any manner subdivides, combines or reclassifies the outstanding shares of Class A Common Stock or Class B Common Stock, the outstanding shares of the other such class shall, concurrently therewith, be subdivided, combined, or reclassified in the same proportion and manner such that the same proportionate equity ownership between the holders of outstanding Class A Common Stock and Class B Common Stock on the record date for such subdivision, combination or reclassification is preserved, unless different treatment of the shares of each such class is approved by (i) the holders of a majority of the outstanding Class A Common Stock and (ii) the holders of a majority of the outstanding Class B Common Stock, each of (i) and (ii) voting as separate classes. In the event of any such subdivision, combination or reclassification, the Corporation shall cause Viant LLC to make corresponding changes to the Class A Units of Viant LLC designated pursuant to the terms and subject to the conditions of the LLC Agreement and Class B Units to give effect to such subdivision, combination or reclassification.

(b) The Corporation shall not consolidate, merge, combine or consummate any other transaction in which shares of Class A Common Stock are exchanged for or converted into other stock or securities, or the right to receive cash and/or any other property, unless in connection with any such consolidation, merger, combination or other transaction each share of Class B Common Stock and/or Class B Unit shall be entitled to be exchanged for or converted into the same kind and amount of stock or securities, cash and/or any other property, as the case may be, into which or for which each share of Class A Common Stock is exchanged or converted; provided, that the consideration for each share of Class B Common Stock and/or Class B Unit shall be deemed the same kind and amount into which or for which each share of Class A Common Stock is exchanged or converted, so long as any differences in the kind and amount of stock or securities, cash and/or any other property are intended (as determined by the Board of Directors in good faith) to maintain the relative voting power of each share of Class B Common Stock relative to each share of Class A Common Stock; provided, further, that the foregoing provisions of this Section 4.12(b) shall not apply to any action or transaction (including any consolidation, merger or combination) approved by (A) the holders of a majority of the outstanding Class A Common Stock, and (B) the holders of a majority of the outstanding Class B Common Stock, each of (A) and (B) voting as separate classes.

ARTICLE V
BOARD OF DIRECTORS

Section 5.1 Number. Except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Resolution), the Board of Directors shall consist of not fewer than 3 nor more than 11 directors, the exact number to be determined from time to time solely by resolution of the Board of Directors. The number of directors constituting the initial Board of Directors is six (6), and the names of the initial members of the Board of Directors are as follows: (1) Tim Vanderhook; (2) Chris Vanderhook; (3) Craig Abrahams; (4) Max Valdes; (5) Brett Wilson; and (6) Vivian Yang. The address of each initial director is 2722 Michelson Dr., Ste 100, Irvine, CA, 92612.

Section 5.2 Classification.

(a) Except as may be otherwise provided with respect to directors elected by the holders of any series of Preferred Stock provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Resolution) (the "Preferred Stock Directors"), the Board of Directors shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II and Class III. Class III directors shall initially serve until the first annual meeting of shareholders following the effective date of this Certificate of Formation (the "Effective Date"); Class I directors shall initially serve until the second annual meeting of shareholders following the Effective Date; and Class II directors shall initially serve until the third annual meeting of shareholders following the Effective Date. Commencing with the first annual meeting of shareholders following

the Effective Date, directors of each class the term of which shall then expire shall be elected to hold office for a three-year term and until the election and qualification of their respective successors in office. In case of any increase or decrease, from time to time, in the number of directors (other than Preferred Stock Directors), the number of directors in each class shall be apportioned as nearly equal as possible. The Board of Directors is authorized to assign members of the Board of Directors already in office to Class I, Class II or Class III, with such assignment becoming effective as of the Effective Date.

(b) Subject to the rights of the holders of any outstanding series of Preferred Stock, and except as otherwise provided by the TBOC, vacancies resulting from the death, resignation, disqualification or removal of any director may be filled in any manner permitted by the TBOC, including by the affirmative vote of a majority of the Board of Directors then in office, even if less than a quorum, or by a sole remaining director; provided, that any director so elected shall hold office for the remainder of the unexpired term of the director's predecessor. Newly created directorships resulting from any increase in the authorized number of directors may be filled in any manner permitted by the TBOC, including by the Board of Directors, provided that a quorum is present; provided, that any director elected by the Board of Directors to fill such a newly created directorship shall hold office only until the next election of one or more directors by the shareholders; provided, however, that for so long as the TBOC prohibits such action, the Board of Directors may not fill more than two such directorships during the period between any two successive annual meetings of shareholders.

(c) No decrease in the authorized number of directors shall shorten the term of any incumbent director.

(d) Prior to any time that Tim Vanderhook, Chris Vanderhook and Four Brothers 2 LLC collectively cease to beneficially own a majority of the combined voting power of the Common Stock (the "Triggering Event"), any director, or the entire Board of Directors, may be removed, with or without cause, by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon; provided, however, that whenever the holders of any class or series are entitled to elect one or more directors by this Certificate of Formation (including any Preferred Stock Resolution), with respect to the removal without cause of a director or directors so elected, the vote of the holders of the outstanding shares of that class or series and not the vote of the outstanding shares as a whole shall apply.

(e) After the Triggering Event, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon.

(f) During any period when the holders of any series of Preferred Stock have the right to elect additional directors as provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Resolution), and upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of directors of the Corporation shall automatically be increased by such number of directors that the holders of any series of Preferred Stock have a right to elect, and the holders of such Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions; and (ii) each Preferred Stock Director shall serve until such Preferred Stock Director's successor shall have been duly elected and qualified, or until such director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, disqualification, resignation or removal. Except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Resolution), whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to said provisions, the terms of office of all Preferred Stock Directors elected by the holders of such Preferred Stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate (in which case each such Preferred Stock Director shall cease to be qualified as a director and shall cease to be a director) and the total authorized number of directors of the Corporation shall be automatically reduced accordingly.

Section 5.3 Powers. Except as otherwise provided by the TBOC or this Certificate of Formation (including any Preferred Stock Resolution), the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 5.4 Election; Annual Meeting of Shareholders.

(a) Ballot Not Required. The directors of the Corporation need not be elected by written ballot unless the Bylaws of the Corporation so provide.

(b) Notice. Advance notice of nominations for the election of directors, and of business other than nominations, to be proposed by shareholders for consideration at a meeting of shareholders of the Corporation shall be given in the manner and to the extent provided in or contemplated by the Bylaws of the Corporation.

(c) Annual Meeting. The annual meeting of shareholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, if any, either within or without the State of Texas, on such date, and at such time as the Board of Directors shall fix.

ARTICLE VI
SHAREHOLDER ACTION

Prior to the Triggering Event, except as otherwise provided for or fixed pursuant to the provisions of Article IV hereof (including any Preferred Stock Resolution), any action required or permitted to be taken by the shareholders of the Corporation may be authorized or taken by the written consent of the holders of outstanding shares of voting stock having not less than the minimum voting power that would be necessary to authorize or take such action at an annual or special meeting of the shareholders, in accordance with Section 6.202 of the TBOC.

After the Triggering Event, any action required or permitted to be taken by the shareholders of the Corporation at an annual or special meeting of the shareholders may only be taken by written consent if such written consent is signed by the holders of all then-outstanding shares of voting stock entitled to vote on such action. Notwithstanding the foregoing, any action required or permitted to be taken by the holders of any series of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable Preferred Stock Resolution, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares of the relevant series of Preferred Stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with the applicable provisions of the TBOC.

ARTICLE VII
SPECIAL MEETINGS OF SHAREHOLDERS

Subject to the special rights of the holders of one or more series of Preferred Stock, special meetings of shareholders of the Corporation may be called, for any purpose or purposes, at any time only by or at the direction of the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer with the concurrence of a majority of the Board of Directors, or by holders of outstanding shares of voting stock having not less than 50% (or the highest percentage then permitted under the TBOC) of the voting power of all outstanding shares of voting stock entitled to vote at such meeting. Notwithstanding the foregoing, if the TBOC is amended to authorize corporate action further eliminating or limiting the ability of shareholders to call special

meetings, then the ability of shareholders to call special meetings shall be eliminated or limited to the fullest extent permitted by the TBOC as so amended. Only such business shall be conducted at a special meeting of shareholders as shall have been specified in the notice for such meeting. The Board of Directors may postpone or reschedule any previously scheduled special meeting at any time, before or after the notice for such meeting has been sent to the shareholders.

ARTICLE VIII
EXISTENCE

The Corporation shall have perpetual existence.

ARTICLE IX
AMENDMENT

Section 9.1 Amendment of Certificate of Formation. The Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision contained in this Certificate of Formation (including any Preferred Stock Resolution), and other provisions authorized by the laws of the State of Texas at the time in force may be added or inserted, in the manner now or hereafter prescribed by the laws of the State of Texas, and all powers, preferences and rights of any nature conferred upon shareholders, directors or any other persons by and pursuant to this Certificate of Formation (including any Preferred Stock Resolution) in its present form or as hereafter amended are granted subject to this reservation; provided, however, that except as otherwise provided in this Certificate of Formation (including any provision of a Preferred Stock Resolution that provides for a greater or lesser vote) and in addition to any other vote required by law, the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, shall be required to amend, alter, change or repeal, or adopt any provision inconsistent with, any provision of this Certificate of Formation.

Section 9.2 Amendment of Bylaws. In furtherance and not in limitation of the powers conferred by the laws of the State of Texas, but subject to the terms of any series of Preferred Stock then outstanding, the Board of Directors is expressly authorized to adopt, amend or repeal the Bylaws of the Corporation. Except as otherwise provided in this Certificate of Formation (including the terms of any Preferred Stock Resolution that require an additional vote) or the Bylaws of the Corporation, and in addition to any requirements of law, the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, shall be required for the shareholders to adopt, amend or repeal, or adopt any provision inconsistent with, any provision of the Bylaws of the Corporation.

ARTICLE X
LIABILITY OF DIRECTORS AND OFFICERS

Section 10.1 No Personal Liability. To the fullest extent permitted by the TBOC as the same exists or as may hereafter be amended, no director or officer of the Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director or officer, as applicable, except to the extent such exemption from liability or limitation thereof is not permitted under the TBOC as the same exists or may hereafter be amended.

Section 10.2 Amendment or Repeal. Any amendment, repeal or elimination of this Article X, or the adoption of any provision of this Certificate of Formation inconsistent with this Article X, shall not affect its application with respect to an act or omission by a director or officer occurring before such amendment, adoption, repeal or elimination.

ARTICLE XI
FORUM FOR ADJUDICATION OF DISPUTES

Section 11.1 Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the Business Court in the First Business Court Division of the State of Texas (the "Business Court") (or, if the Business Court determines that it lacks jurisdiction, the United States District Court for the Northern District of Texas, Dallas Division, or, if that court lacks jurisdiction, the state district court of Dallas County, Texas) shall, to the fullest extent permitted by law, be the sole and exclusive forum for any and all disputes, claims, actions or proceedings, including, but not limited to, the following: (i) any derivative action, suit or proceeding brought on behalf of the Corporation, (ii) any action, suit, or proceeding asserting a claim for or based on a breach of a fiduciary duty owed by any current or former director, officer, or other employee, agent or shareholder of the Corporation to the Corporation or to the Corporation's shareholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty, (iii) any action, suit, or proceeding arising pursuant to any provision of the TBOC or this Certificate of Formation or the Bylaws (as either may be amended from time to time), (iv) any action, suit, or proceeding to interpret, apply, enforce or determine the validity of this Certificate of Formation or the Bylaws (as either may be amended from time to time), (v) any action, suit, or proceeding asserting a claim related to or involving the Corporation that is governed by the internal affairs doctrine, (vi) any action, suit, or proceeding asserting an "internal entity claim" as that term is defined in Section 2.115 of the TBOC, or (vii) any other action, suit, or proceeding within the jurisdiction of the Business Court, including any claims within the supplemental jurisdiction of the Business Court. If any action the subject matter of which is within the scope of the immediately preceding sentence is filed in a court other than the courts in the State of Texas (a "Foreign Action") in the name of any shareholder, such shareholder shall be deemed to have consented to (x) the personal jurisdiction of the state and federal courts in the State of Texas in connection with any action brought in any such court to enforce the provisions of this Section 11.1 and (y) having service of process made upon such shareholder in any such action by service upon such shareholder's counsel in the Foreign Action as agent for such shareholder. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of stock of the Corporation shall be deemed to have notice of, and consented to, the provisions of this Article XI, and shall be deemed to have irrevocably and unconditionally agreed that the Business Court shall be the sole and exclusive forum for the resolution of the foregoing disputes to the fullest extent permitted by law.

Notwithstanding the foregoing, unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended, and this Article XI shall not apply to suits brought to enforce any liability or duty created by the Securities Exchange Act of 1934, as amended, or any other claim for which the federal courts of the United States have exclusive jurisdiction; provided, however, that unless the Corporation consents in writing to the selection of an alternative forum, to the fullest extent permitted by law, the United States District Court for the Northern District of Texas shall be the exclusive forum for the resolution of any claim, cause of action, suit or proceeding arising under the Securities Exchange Act of 1934, as amended, or the rules and regulations promulgated thereunder, that is brought or purported to be brought derivatively on behalf of the Corporation, or as to which the Corporation is the real party in interest.

Section 11.2 Jury Trial Waiver. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNLESS THE CORPORATION CONSENTS IN WRITING TO A JURY TRIAL, THE CORPORATION, EACH DIRECTOR AND OFFICER, AND ANY PERSON OR ENTITY PURCHASING OR OTHERWISE ACQUIRING OR HOLDING ANY LEGAL OR BENEFICIAL INTEREST IN SHARES OF STOCK OF THE CORPORATION SHALL BE DEEMED TO HAVE KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVED ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN (A) ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, CROSS-CLAIM OR COUNTERCLAIM ASSERTING AN "INTERNAL ENTITY CLAIM" AS THAT TERM IS DEFINED IN SECTION 2.115 OF THE TBOC, AND (B) ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, CROSS-CLAIM OR COUNTERCLAIM WITHIN**

THE SCOPE OF THE EXCLUSIVE FORUM PROVISIONS SET FORTH IN SECTION 11.1 OF THIS ARTICLE XI.

Section 11.3 Third-Party Beneficiaries. This Article XI is intended to benefit and may be enforced by the Corporation, its officers and directors, the underwriters to any offering giving rise to any claim subject to this Article XI, and any other professional or entity whose profession gives authority to a statement made by that person or entity and who has prepared or certified any part of the documents underlying the offering.

The existence of any prior consent to, or selection of, an alternative forum by the Corporation shall not act as a waiver of the Corporation's ongoing consent right as set forth in this Article XI with respect to any current or future actions or claims. Failure to enforce the foregoing provisions would cause the Corporation irreparable harm and the Corporation shall be entitled to equitable relief, including injunctive relief and specific performance, to enforce the foregoing provisions.

Section 11.4 Enforceability. If any provision of this Article XI shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article XI (including, without limitation, each portion of any sentence of this Article XI containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby.

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IN WITNESS WHEREOF, the Corporation has caused this Certificate of Formation to be executed by a duly authorized officer of the Corporation, this [ ] day of [ ], 20[ ]. The undersigned affirms that the person designated as registered agent in this Certificate of Formation has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

VIANT TECHNOLOGY INC.

By: _____
Name: Larry Madden
Title: Chief Financial Officer

BYLAWS

OF

VIANT TECHNOLOGY INC.

(a Texas corporation)

ARTICLE I
IDENTIFICATION; CORPORATE OFFICES

Section 1.1 Name. The name of the corporation is Viant Technology Inc. (the "Corporation").

Section 1.2 Registered Office. The address of the Corporation's registered office in the State of Texas, and the name of its registered agent at such address, shall be fixed in the Certificate of Formation (the "Certificate of Formation") of the Corporation. The Corporation's registered agent and the address of the Corporation's registered office may be changed from time to time by or under the authority of the Board of Directors (the "Board of Directors"), in the manner provided by the Texas Business Organizations Code (the "TBOC"). The Corporation's registered office may be, but need not be, identical with the Corporation's principal office in the State of Texas.

Section 1.3 Other Offices. The Corporation may also have an office or offices, and keep the books and records of the Corporation, except as otherwise required by law, at such other place or places, either within or without the State of Texas, as the Corporation may from time to time determine or the business of the Corporation may require.

ARTICLE II
MEETINGS OF SHAREHOLDERS

Section 2.1 Annual Meeting. The annual meeting of shareholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, if any, either within or without the State of Texas, on such date, and at such time as the Board of Directors shall fix. The Board of Directors may postpone, reschedule or cancel any annual meeting of shareholders previously scheduled by the Board of Directors.

Section 2.2 Special Meeting. Special meetings of shareholders may be called only by such persons and only in such manner as set forth in the Certificate of Formation. The notice of a special meeting of shareholders shall include the purpose for which the meeting is called. No business may be transacted at any special meeting of shareholders other than the business specified in the notice of such meeting. The Board of Directors may postpone or reschedule any previously scheduled special meeting of shareholders.

Section 2.3 Notice of Shareholder Meetings.

(a) Whenever shareholders are required or permitted to take any action at a meeting, notice of the place, if any, date, and time of the meeting of shareholders, the record date for determining the shareholders entitled to vote at the meeting (if such date is different from the record date for determining the shareholders entitled to notice of the meeting), the means of remote communications, if any, by which shareholders and proxyholders may be deemed to be present in person and vote at such meeting and, if the meeting is to be held solely by means of remote communications, the means for accessing the list of shareholders contemplated by Section 2.5 of these

Bylaws, shall be given. The notice shall be given not less than 10 nor more than 60 days before the date on which the meeting is to be held, to each shareholder entitled to vote at such meeting as of the record date for determining the shareholders entitled to notice of the meeting, except as otherwise provided by law, the Certificate of Formation (including any Preferred Stock Resolution (as defined in the Certificate of Formation)) or these Bylaws. In the case of a special meeting, the purpose or purposes for which the meeting is called also shall be set forth in the notice. To the extent required by the TBOC, notice of a meeting of shareholders involving a fundamental business transaction (as defined in the TBOC) must be given to each shareholder of the Corporation not later than the 21st day prior to the meeting, regardless of the shareholder's right to vote on the matter, and shall state that the purpose, or one of the purposes, of the meeting is to consider a fundamental business transaction.

(b) Except as otherwise required by law, notice may be given in writing directed to a shareholder's mailing address as it appears on the records of the Corporation and shall be given: (i) if mailed, when notice is deposited in the U.S. mail, postage prepaid; and (ii) if delivered by courier service, the earlier of when the notice is received or left at such shareholder's address.

(c) So long as the Corporation is subject to the Securities and Exchange Commission's proxy rules set forth in Regulation 14A under the Securities Exchange Act of 1934 (the "Exchange Act"), notice shall be given in the manner required by such rules, to the extent consistent with the TBOC.

(d) Notice may be given by electronic mail or other form of electronic transmission only with the consent of the shareholder to whom such notice is given, in the manner permitted by Section 21.3531 of the TBOC, and shall be deemed given as provided therein. Any such consent shall be revocable by the shareholder by written notice to the Corporation and shall be deemed revoked in the circumstances described in Section 21.3531(c) of the TBOC.

(e) An affidavit that notice has been given, executed by the Secretary of the Corporation, Assistant Secretary or any transfer agent or other agent of the Corporation, shall be *prima facie* evidence of the facts stated in the notice in the absence of fraud. Notice shall be deemed to have been given to all shareholders who share an address if notice is given in accordance with the "householding" rules set forth in Rule 14a-3(e) under the Exchange Act, and only to the extent permitted by the TBOC.

(f) When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the place, if any, date and time thereof, and the means of remote communications, if any, by which shareholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting. If after the adjournment a new record date for shareholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting in accordance with Section 7.6(a), and shall give notice of the adjourned meeting to each shareholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Section 2.4 Organization.

(a) Unless otherwise determined by the Board of Directors, meetings of shareholders shall be presided over by the Chairman of the Board of Directors, or in his or her absence, by the Chief Executive Officer or, in his or her absence, by another person designated by the Board of Directors. The Secretary of the Corporation, or in his or her absence, an Assistant Secretary, or in the absence of the Secretary and all Assistant Secretaries, a person whom the chairman of the meeting shall appoint, shall act as secretary of the meeting and keep a record of the proceedings thereof.

(b) The date and time of the opening and the closing of the polls for each matter upon which the shareholders shall vote at a meeting of shareholders shall be announced at the meeting. The Board of Directors may adopt

such rules and regulations for the conduct of any meeting of shareholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of the meeting shall have the authority to adopt and enforce such rules and regulations for the conduct of any meeting of shareholders and the safety of those in attendance as, in the judgment of the chairman, are necessary, appropriate or convenient for the conduct of the meeting. Rules and regulations for the conduct of meetings of shareholders, whether adopted by the Board of Directors or by the chairman of the meeting, may include, without limitation, establishing: (i) an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to shareholders entitled to vote at the meeting, their duly authorized and constituted proxies and such other persons as the chairman of the meeting shall permit; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; (v) limitations on the time allotted for consideration of each agenda item and for questions and comments by participants; (vi) regulations for the opening and closing of the polls for balloting and matters which are to be voted on by ballot (if any); and (vii) procedures (if any) requiring attendees to provide the Corporation advance notice of their intent to attend the meeting. Subject to any rules and regulations adopted by the Board of Directors, the chairman of the meeting may convene and, for any or no reason, from time to time, adjourn and/or recess any meeting of shareholders pursuant to Section 2.7. The chairman of the meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power to declare that a nomination or other business was not properly brought before the meeting if the facts warrant (including if a determination is made, pursuant to Section 2.10(c)(i) of these Bylaws, that a nomination or other business was not made or proposed, as the case may be, in accordance with Section 2.10 of these Bylaws), and if such chairman should so declare, such nomination shall be disregarded or such other business shall not be transacted.

Section 2.5 List of Shareholders. The Corporation shall prepare, at least 11 days before every meeting of shareholders, a complete list of the shareholders entitled to vote at the meeting; provided, however, that if the record date for determining the shareholders entitled to vote is less than 11 days before the date of the meeting, the list shall reflect the shareholders entitled to vote as of the 11th day before the meeting date. Such list shall be arranged in alphabetical order and shall show the address of each shareholder, the type of shares held by each shareholder, the number of shares registered in the name of each shareholder, and the number of votes to which each shareholder is entitled. Nothing in this Section 2.5 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. In accordance with Section 21.372 of the TBOC, such list shall be open to the examination of any shareholder, for any purpose germane to the meeting, at least 10 days prior to the meeting: (a) by a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting; or (b) during ordinary business hours, at the principal executive office of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation shall take reasonable steps to ensure that such information is available only to shareholders of the Corporation. If the meeting is to be held at a place, then a list of shareholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined by any shareholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any shareholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the shareholders entitled to vote at the meeting and the number and class or series of shares held by each of them. Failure to comply with the foregoing requirements of this Section 2.5 shall not affect the validity of any action taken at a meeting of the shareholders of the Corporation. Except as otherwise required by law, the stock ledger shall be the only evidence as to who are the shareholders entitled to examine the list of shareholders required by this Section 2.5 or to vote in person or by proxy at any meeting of shareholders.

Section 2.6 Quorum. Except as otherwise required by law, the Certificate of Formation (including any Preferred Stock Resolution) or these Bylaws, at any meeting of shareholders, a majority of the voting power of the stock outstanding and entitled to vote at the meeting, present in person or represented by proxy, shall constitute a

quorum for the transaction of business; provided, however, that where a separate vote by a class or series or classes or series is required, a majority of the voting power of the stock of such class or series or classes or series outstanding and entitled to vote on that matter, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to such matter. If a quorum is not present or represented at any meeting of shareholders, then the chairman of the meeting, or a majority of the voting power of the stock present in person or represented by proxy at the meeting and entitled to vote thereon, shall have power to adjourn or recess the meeting from time to time in accordance with Section 2.7, until a quorum is present or represented. Subject to applicable law, if a quorum initially is present at any meeting of shareholders, the shareholders may continue to transact business until adjournment or recess, notwithstanding the withdrawal of enough shareholders to leave less than a quorum, but if a quorum is not present at least initially, no business other than adjournment or recess may be transacted.

Section 2.7 Adjourned or Recessed Meeting. Any annual or special meeting of shareholders, whether or not a quorum is present, may be adjourned or recessed for any or no reason from time to time by the chairman of the meeting, subject to any rules and regulations adopted by the Board of Directors pursuant to Section 2.4(b). Any such meeting may be adjourned for any or no reason (and may be recessed if a quorum is not present or represented) from time to time by a majority of the voting power of the stock present in person or represented by proxy at the meeting and entitled to vote thereon. At any such adjourned or recessed meeting at which a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

Section 2.8 Voting; Proxies.

(a) Except as otherwise required by law or the Certificate of Formation (including any Preferred Stock Resolution), each holder of stock of the Corporation entitled to vote at any meeting of shareholders shall be entitled to one vote for each share of such stock held of record by such holder that has voting power upon the subject matter in question.

(b) Except as otherwise required by law, the Certificate of Formation (including any Preferred Stock Resolution), these Bylaws or any law, rule or regulation applicable to the Corporation or its securities, at each meeting of shareholders at which a quorum is present, all corporate actions to be taken by vote of the shareholders shall be authorized by the affirmative vote of at least a majority of the voting power of the stock present in person or represented by proxy and entitled to vote on the subject matter, and where a separate vote by a class or series or classes or series is required, if a quorum of such class or series or classes or series is present, such act shall be authorized by the affirmative vote of at least a majority of the voting power of the stock of such class or series or classes or series present in person or represented by proxy and entitled to vote on the subject matter. Voting at meetings of shareholders need not be by written ballot.

(c) Every shareholder entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more persons authorized to act for such shareholder by proxy, but no such proxy shall be voted or acted upon after eleven months from its date of execution, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Sections 21.368 and 21.369 of the TBOC. A shareholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the Corporation a revocation of the proxy or an executed new proxy bearing a later date.

Section 2.9 Submission of Information by Director Nominees.

(a) To be eligible to be a nominee for election or re-election as a director of the Corporation, a person must deliver to the Secretary of the Corporation at the principal executive offices of the Corporation the following information:

(i) a written representation and agreement, which shall be signed by such person and pursuant to which such person shall represent and agree that such person: (A) consents to serving as a director if elected and to being

named in the Corporation's proxy statement and form of proxy as a nominee, and currently intends to serve as a director for the full term for which such person is standing for election; (B) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity: (1) as to how the person, if elected as a director, will act or vote on any issue or question that has not been disclosed to the Corporation; or (2) that could limit or interfere with the person's ability to comply, if elected as a director, with such person's fiduciary duties under applicable law; (C) 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 service or action as a director or nominee that has not been disclosed to the Corporation; and (D) if elected as a director, will comply with all of the Corporation's corporate governance, conflict of interest, confidentiality, and stock ownership and trading policies and guidelines, and any other Corporation policies and guidelines applicable to directors (which will be promptly provided following a request therefor); and

(ii) all completed and signed questionnaires prepared by the Corporation (including those questionnaires required of the Corporation's directors and any other questionnaire the Corporation determines is necessary or advisable to assess whether a nominee will satisfy any qualifications or requirements imposed by the Certificate of Formation or these Bylaws, any law, rule, regulation or listing standard that may be applicable to the Corporation, and the Corporation's corporate governance policies and guidelines) (all of the foregoing, "Questionnaires"). The Questionnaires will be promptly provided following a request therefor.

(b) A nominee for election or re-election as a director of the Corporation shall also provide to the Corporation such other information as it may reasonably request. The Corporation may request such additional information as necessary to permit the Corporation to determine the eligibility of such person to serve as a director of the Corporation, including information relevant to a determination whether such person can be considered an independent director.

(c) Notwithstanding any other provision of these Bylaws, if a shareholder has submitted notice of an intent to nominate a candidate for election or re-election as a director pursuant to Section 2.10, the Questionnaires described in Section 2.9(a)(ii) above and the additional information described in Section 2.9(b) above shall be considered timely if provided to the Corporation promptly upon request by the Corporation, but in any event within five business days after such request, and all information provided pursuant to this Section 2.9 shall be deemed part of the shareholder's notice submitted pursuant to Section 2.10.

Section 2.10 Notice of Shareholder Business and Nominations.

(a) Annual Meeting.

(i) Nominations of persons for election to the Board of Directors and the proposal of business other than nominations to be considered by the shareholders may be made at an annual meeting of shareholders only: (A) pursuant to the Corporation's notice of meeting (or any supplement thereto); (B) by or at the direction of the Board of Directors (or any authorized committee thereof); or (C) by any shareholder of the Corporation who is a shareholder of record at the time the notice provided for in this Section 2.10(a) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 2.10(a). For the avoidance of doubt, the foregoing clause (C) shall be the exclusive means for a shareholder to make nominations or propose other business at an annual meeting of shareholders (other than a proposal included in the Corporation's proxy statement pursuant to and in compliance with Rule 14a-8 under the Exchange Act).

(ii) For nominations or other business to be properly brought before an annual meeting by a shareholder pursuant to clause (C) of the foregoing paragraph, the shareholder must have given timely notice thereof in writing to the Secretary of the Corporation and, in the case of business other than nominations, such business must be a proper subject for shareholder action. To be timely, a shareholder's notice must be delivered to the Secretary at the

principal executive offices of the Corporation not later than the close of business (as defined in Section 2.10(c)(ii) below) on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 30 days after such anniversary date, or if no annual meeting was held in the preceding year, notice by the shareholder to be timely must be so delivered not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the 10th day following the date on which public announcement (as defined in Section 2.10(c)(ii) below) of the date of such meeting is first made by the Corporation. In no event shall an adjournment or recess of an annual meeting, or a postponement of an annual meeting for which notice of the meeting has already been given to shareholders or a public announcement of the meeting date has already been made, commence a new time period (or extend any time period) for the giving of a shareholder's notice as described above. The number of nominees a shareholder may nominate for election at the annual meeting (or in the case of a shareholder giving the notice on behalf of a beneficial owner, the number of nominees a shareholder may nominate for election at the annual meeting on behalf of the beneficial owner) shall not exceed the number of directors to be elected at such annual meeting. For purposes of this Section 2.10, the 2026 annual meeting of shareholders shall be deemed to have been held on June 4, 2026. Such shareholder's notice shall set forth:

(A) as to each person whom the shareholder proposes to nominate for election or re-election as a director: (1) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Regulation 14A under the Exchange Act; and (2) the information required to be submitted by nominees pursuant to Section 2.9(a)(i) above and all completed and signed Questionnaires described in Section 2.9(a)(ii) above, which will be promptly provided following a request therefor;

(B) as to any other business that the shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any substantial interest (within the meaning of Item 5 of Schedule 14A under the Exchange Act) in such business of such shareholder and the beneficial owner (within the meaning of Section 13(d) of the Exchange Act), if any, on whose behalf the proposal is made;

(C) as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made or the other business is proposed:

(1) the name and address of such shareholder, as they appear on the Corporation's books, and the name and address of such beneficial owner;

(2) the class or series and number of shares of stock of the Corporation which are owned of record by such shareholder and such beneficial owner as of the date of the notice, and a representation that the shareholder will notify the Corporation in writing within five business days after the record date for such meeting of the class or series and number of shares of stock of the Corporation owned of record by the shareholder and such beneficial owner as of the record date for the meeting; and

(3) a representation that the shareholder (or a qualified representative of the shareholder) intends to appear at the meeting to make such nomination or propose such business;

(D) as to the shareholder giving the notice or, if the notice is given on behalf of a beneficial owner on whose behalf the nomination is made or the other business is proposed, as to such beneficial owner, and if such shareholder or beneficial owner is an entity, as to each director, executive, managing member or control person of such entity (any such individual or control person, a "control person"):

(1) the class or series and number of shares of stock of the Corporation which are beneficially owned (as defined in Section 2.10(c)(ii) below) by such shareholder or beneficial owner and by any control person as of the date of the notice, and a representation that the shareholder will notify the Corporation in writing within five business days after the record date for such meeting of the class or series and number of shares of stock of the Corporation beneficially owned by such shareholder or beneficial owner and by any control person as of the record date for the meeting;

(2) a description of any agreement, arrangement or understanding with respect to the nomination or other business between or among such shareholder, beneficial owner or control person and any other person, including, without limitation, any agreements that would be required to be disclosed pursuant to Item 5 or Item 6 of Exchange Act Schedule 13D (regardless of whether the requirement to file a Schedule 13D is applicable) and a representation that the shareholder will notify the Corporation in writing within five business days after the record date for such meeting of any such agreement, arrangement or understanding in effect as of the record date for the meeting;

(3) a description of any agreement, arrangement or understanding (including, without limitation, any derivative or short positions, profit interests, options, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the shareholder's notice by, or on behalf of, such shareholder, beneficial owner or control person, the effect or intent of which is to mitigate loss, manage risk or benefit from changes in the share price of any class or series of the Corporation's stock, or maintain, increase or decrease the voting power of the shareholder, beneficial owner or control person with respect to securities of the Corporation, and a representation that the shareholder will notify the Corporation in writing within five business days after the record date for such meeting of any such agreement, arrangement or understanding in effect as of the record date for the meeting;

(4) a representation whether the shareholder or the beneficial owner, if any, will engage in a solicitation with respect to the nomination or other business and, if so, the name of each participant in such solicitation (as defined in Item 4 of Schedule 14A under the Exchange Act) and whether such person intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to holders of shares representing at least 50% of the voting power of the stock entitled to vote generally in the election of directors in the case of a nomination, or holders of at least the percentage of the Corporation's stock required to approve or adopt the business to be proposed in the case of other business.

(iii) Notwithstanding anything in Section 2.10(a)(ii) above or Section 2.10(b) below to the contrary, if the record date for determining the shareholders entitled to vote at any meeting of shareholders is different from the record date for determining the shareholders entitled to notice of the meeting, a shareholder's notice required by this Section 2.10 shall set forth a representation that the shareholder will notify the Corporation in writing within five business days after the record date for determining the shareholders entitled to vote at the meeting, or by the opening of business on the date of the meeting (whichever is earlier), of the information required under clauses (ii)(C)(2) and (ii)(D)(1)-(3) of this Section 2.10(a), and such information when provided to the Corporation shall be current as of the record date for determining the shareholders entitled to vote at the meeting.

(iv) This Section 2.10(a) shall not apply to a proposal proposed to be made by a shareholder if the shareholder has notified the Corporation of his or her intention to present the proposal at an annual or special meeting only pursuant to and in compliance with Rule 14a-8 under the Exchange Act and such proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such meeting.

(v) Notwithstanding anything in this Section 2.10(a) to the contrary, in the event that the number of directors to be elected to the Board of Directors at an annual meeting is increased and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least 10 days prior to the last day a shareholder may deliver a notice in accordance with Section 2.10(a)(ii) above, a shareholder's notice required by this Section 2.10(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(b) Special Meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of shareholders at which directors are to be elected pursuant to the Corporation's notice of meeting: (i) by or at the direction of the Board of Directors (or any authorized committee thereof); or (ii) provided that one or more directors are to be elected at such meeting, by any shareholder of the Corporation who is a shareholder of record at the time the notice provided for in this Section 2.10(b) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who delivers notice thereof in writing setting forth the information required by Section 2.10(a) above and provides the additional information required by Section 2.9 above. In the event the Corporation calls a special meeting of shareholders for the purpose of electing one or more directors to the Board of Directors, any shareholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the notice required by this Section 2.10(b) shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or the 10th day following the date on which public announcement of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting is first made by the Corporation. The number of nominees a shareholder may nominate for election at the special meeting (or in the case of a shareholder giving the notice on behalf of a beneficial owner, the number of nominees a shareholder may nominate for election at the special meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such special meeting. In no event shall an adjournment, recess or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a shareholder's notice as described above.

(c) General.

(i) Except as otherwise required by law, only such persons who are nominated in accordance with the procedures set forth in this Section 2.10 shall be eligible to be elected at any meeting of shareholders of the Corporation to serve as directors and only such other business shall be conducted at a meeting of shareholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 2.10. Except as otherwise required by law, each of the Board of Directors or the chairman of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 2.10 (including whether a shareholder or beneficial owner solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in compliance with such shareholder's representation as required by clause (a)(ii)(D)(4) of this Section 2.10). If any proposed nomination or other business is not in compliance with this Section 2.10, then except as otherwise required by law, the chairman of the meeting shall have the power to declare that such nomination shall be disregarded or that such other business shall not be transacted. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, or otherwise determined by the Board of Directors or the chairman of the meeting, if the shareholder does not provide the information required under Section 2.9 or clauses (a)(ii)(C)(2) and (a)(ii)(D)(1)-(3) of this Section 2.10 to the Corporation within the time frames specified herein, any such nomination shall be disregarded and any such other business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, or otherwise determined by the Board of Directors or the chairman of the meeting, if the shareholder (or a qualified representative of the shareholder) does not appear at the annual or special meeting of shareholders of the Corporation to present a nomination or other business (whether pursuant to the requirements of these Bylaws or in accordance with Rule 14a-8 under the Exchange Act), such nomination shall be disregarded and such other business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. To be considered a qualified representative of a shareholder pursuant to the preceding sentence, a person must be a duly authorized officer, manager or partner of such shareholder or authorized by a writing executed by such shareholder (or a reliable reproduction of the writing) delivered to the Corporation prior to the making of such nomination or proposal at such meeting (and in any event not fewer than five days before the meeting) stating that such person is authorized to act for such shareholder as proxy at the meeting of shareholders.

(ii) For purposes of this Section 2.10, the "close of business" shall mean 6:00 p.m. local time at the principal executive offices of the Corporation on any calendar day, whether or not the day is a business day, and a "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act. For purposes of clause (a)(ii)(D)(1) of this Section 2.10, shares shall be treated as "beneficially owned" by a person if the person beneficially owns such shares, directly or indirectly, for purposes of Section 13(d) of the Exchange Act and Regulations 13D and 13G thereunder or has or shares pursuant to any agreement, arrangement or understanding (whether or not in writing): (A) the right to acquire such shares (whether such right is exercisable immediately or only after the passage of time or the fulfillment of a condition or both); (B) the right to vote such shares, alone or in concert with others; and/or (C) investment power with respect to such shares, including the power to dispose of, or to direct the disposition of, such shares.

(iii) Nothing in this Section 2.10 shall be deemed to affect any rights of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Formation (including any Preferred Stock Resolution).

Section 2.11 Action by Written Consent.

(a) Any action required or permitted to be taken at any annual or special meeting of shareholders of the Corporation may be taken without a meeting, without prior notice and without a vote only to the extent permitted by and in the manner provided in the Certificate of Formation. Every such consent shall include the date of signature of each shareholder who signs the consent and the date of signing of the latest-dated consent satisfying the minimum number of shareholders necessary to approve the action. No consent will be effective to take the corporate action referred to therein unless consents signed by a sufficient number of shareholders to take action are delivered to the Corporation in accordance with this Section 2.11 and the TBOC no later than 60 days after the date of the signing of the earliest-dated consent of the shareholders signing the consent or consents. All references to a consent in this Section mean a consent permitted by the applicable provisions of the TBOC. Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent shall be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made, if evidence of such instruction or provision is provided to the Corporation, in each case subject to Section 6.202 of the TBOC. If a written consent or consents described by this subsection are to take effect at a future time, all of the written consents take effect at that future effective time in accordance with Section 6.202 of the TBOC. Unless otherwise provided, any such consent shall be revocable prior to its becoming effective.

(b) At any time during which the shareholders of the Corporation are permitted to act by less than unanimous written consent pursuant to the Certificate of Formation, prompt notice of the taking of the corporate action without a meeting by less than unanimous consent shall be given to each shareholder as of the record date for the action who did not sign a consent, in accordance with Section 6.202 of the TBOC.

Section 2.12 Inspectors of Election. Before any meeting of shareholders, the Corporation may, and shall if required by law, appoint one or more inspectors of election to act at the meeting and make a written report thereof. Inspectors may be employees of the Corporation. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of shareholders, the chairman of the meeting may, and shall if required by law, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Inspectors need not be shareholders. No director or nominee for the office of director at an election shall be appointed as an inspector at such election.

Such inspectors shall:

(a) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the validity of proxies and ballots;

(b) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors;

(c) count and tabulate all votes and ballots; and

(d) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots.

Section 2.13 Meetings by Remote Communications. The Board of Directors may, in its sole discretion, determine that a meeting of shareholders shall not be held at any place, but may instead be held solely by means of remote communication in accordance with applicable provisions of the TBOC. If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may, by means of remote communication: (a) participate in a meeting of shareholders; and (b) be deemed present in person and vote at a meeting of shareholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that: (i) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxyholder; (ii) the Corporation shall implement reasonable measures to provide such shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and (iii) if any shareholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

Section 2.14 Delivery to the Corporation. Whenever this Article II requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), the Corporation shall not be required to accept delivery of such document or information unless the document or information is in writing exclusively (and not in an electronic transmission) and delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested.

ARTICLE III
DIRECTORS

Section 3.1 Powers. Except as otherwise provided by the Certificate of Formation or the TBOC, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities these Bylaws expressly confer upon it, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law, the Certificate of Formation (including any Preferred Stock Resolution) or these Bylaws required to be exercised or done by the shareholders.

Section 3.2 Number and Election. Except as otherwise provided for or fixed pursuant to the Certificate of Formation (including any Preferred Stock Resolution), the Board of Directors shall consist of not fewer than 3 nor more than 11 directors, the exact number to be determined from time to time solely by resolution of the Board of Directors.

At any meeting of shareholders at which directors are to be elected, directors shall be elected by a plurality of the votes cast.

Directors need not be shareholders unless so required by the Certificate of Formation (including any Preferred Stock Resolution) or these Bylaws, wherein other qualifications for directors may be prescribed.

Section 3.3 Vacancies and Newly Created Directorships.

(a) Except as otherwise required by applicable law, vacancies occurring in any directorship (whether by death, resignation, retirement, disqualification, removal or other cause) and newly created directorships resulting from any increase in the number of directors shall be filled in accordance with the Certificate of Formation.

(b) No decrease in the authorized number of directors shall shorten the term of any incumbent director.

Section 3.4 Resignations and Removal.

(a) Any director may resign at any time upon notice given in writing or by electronic transmission to the Board of Directors, the Chairman of the Board of Directors or the Secretary of the Corporation. Such resignation shall take effect upon delivery, unless the resignation specifies a later effective date or time or an effective date or time determined upon the happening of an event or events. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(b) Prior to the Triggering Event (as defined in the Certificate of Formation), any director, or the entire Board of Directors, may be removed, with or without cause, by the affirmative vote of at least a majority of the voting power of the stock outstanding and entitled to vote thereon; provided, however, that whenever the holders of any class or series are entitled to elect one or more directors by the Certificate of Formation (including any Preferred Stock Resolution), with respect to the removal without cause of a director or directors so elected, the vote of the holders of the outstanding shares of that class or series and not the vote of the outstanding shares as a whole shall apply.

(c) After the Triggering Event, except for such additional directors, if any, as are elected by the holders of any series of Preferred Stock as provided for or fixed pursuant to the Certificate of Formation (including any Preferred Stock Resolution), any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon.

Section 3.5 Regular Meetings. Regular meetings of the Board of Directors shall be held at such place or places, within or without the State of Texas, on such date or dates and at such time or times, as shall have been established by the Board of Directors and publicized among all directors. A notice of each regular meeting shall not be required.

Section 3.6 Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairman of the Board of Directors, the Chief Executive Officer or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place, within or without the State of Texas, date and time of such meetings. Notice of each such meeting shall be given to each director (i) if by mail, addressed to such director at his or her residence or usual place of business, at least five days before the day on which such meeting is to be held, or (ii) if delivered personally or by telephone or, with the consent of such director in accordance with Section 21.411(d) of the TBOC, sent by electronic transmission, at least 24 hours prior to the time set for such meeting. A notice of special meeting need not state the purpose of such meeting, and, unless indicated in the notice thereof, any and all business may be transacted at a special meeting.

Section 3.7 Participation in Meetings by Conference Telephone. Members of the Board of Directors, or of any committee thereof, may participate in a meeting of such Board of Directors or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

Section 3.8 Quorum and Voting. Except as otherwise required by law, the Certificate of Formation or these Bylaws, a majority of the total number of directors then authorized (hereinafter referred to as the "Whole Board") shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, and the vote of a majority of the directors present at a duly held meeting at which a quorum is present shall be the act of the Board of Directors. The chairman of the meeting or a majority of the directors present may adjourn the meeting to another time and place whether or not a quorum is present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.9 Board of Directors Action by Written Consent Without a Meeting. Unless otherwise restricted by the Certificate of Formation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee thereof, may be taken without a meeting, provided that all members of the Board of Directors or committee, as the case may be, consent in writing or by electronic transmission to such action. After an action is taken, the consent or consents relating thereto shall be filed with the minutes or proceedings of the Board of Directors or committee in the same paper or electronic form as the minutes are maintained. Any person (whether or not then a director) may provide, whether through instruction to an agent or otherwise, that a consent to action shall be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made, and such consent shall be deemed to have been given at such effective time so long as such person is then a director and did not revoke the consent prior to such time, in each case in accordance with Section 6.201 of the TBOC. Any such consent shall be revocable prior to its becoming effective.

Section 3.10 Chairman of the Board. The Chairman of the Board shall preside at meetings of shareholders (unless otherwise determined by the Board of Directors) and at meetings of directors and shall perform such other duties as the Board of Directors may from time to time determine. If the Chairman of the Board is not present at a meeting of the Board of Directors, another director chosen by the Board of Directors shall preside.

Section 3.11 Rules and Regulations. The Board of Directors shall adopt such rules and regulations not inconsistent with the provisions of law, the Certificate of Formation or these Bylaws for the conduct of its meetings and management of the affairs of the Corporation as the Board of Directors shall deem proper.

Section 3.12 Fees and Compensation of Directors. Unless otherwise restricted by the Certificate of Formation, directors may receive such compensation, if any, for their services on the Board of Directors and its committees, and such reimbursement of expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 3.13 Emergency Bylaws. This Section 3.13 shall be operative during any emergency period, as defined in Section 3.251 of the TBOC (an "Emergency"), notwithstanding any different or conflicting provisions in these Bylaws or the Certificate of Formation, to the fullest extent permitted by the TBOC. In the event of any Emergency, or other similar emergency condition, as a result of which a quorum of the Board of Directors or a standing committee of the Board of Directors cannot readily be convened for action, the director or directors in attendance at a meeting of the Board of Directors or a standing committee thereof shall constitute a quorum. Such director or directors in attendance may further take action to appoint one or more of themselves or other directors to membership on any standing or temporary committees of the Board of Directors as they shall deem necessary and appropriate. Except as the Board of Directors may otherwise determine, during any Emergency, the Corporation and its directors and officers may exercise any authority and take any action or measure contemplated by Subchapter F of Chapter 3 of the TBOC.

ARTICLE IV
COMMITTEES

Section 4.1 Committees of the Board of Directors. The Board of Directors may designate one or more committees, each such committee to consist of one or more of the directors of the Corporation. The Board of

Directors may designate one or more directors as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee. Any such committee, to the extent permitted by law and provided in the resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority to take any action that a committee of the Board of Directors may not validly take under the TBOC, as it presently exists or may hereafter be amended. All committees of the Board of Directors shall keep minutes of their meetings and shall report their proceedings to the Board of Directors when requested or required by the Board of Directors.

Section 4.2 Meetings and Action of Committees. Unless the Board of Directors provides otherwise by resolution, any committee of the Board of Directors may adopt, alter and repeal such rules and regulations not inconsistent with the provisions of law, the Certificate of Formation or these Bylaws for the conduct of its meetings as such committee may deem proper. A majority of the directors then serving on a committee shall constitute a quorum for the transaction of business by the committee except as otherwise required by law, the Certificate of Formation or these Bylaws, and except as otherwise provided in a resolution of the Board of Directors; provided, however, that in no case shall a quorum be less than one-third of the directors then serving on the committee. Unless the Certificate of Formation, these Bylaws or a resolution of the Board of Directors requires a greater number, the vote of a majority of the members of a committee present at a meeting at which a quorum is present shall be the act of the committee.

ARTICLE V
OFFICERS

Section 5.1 Officers. The officers of the Corporation shall consist of a Chief Executive Officer (who shall be deemed the President for purposes of the TBOC, unless a President has been elected by the Board), a Chief Operating Officer, a Chief Financial Officer, a Secretary, a Treasurer, and a Controller (the "Designated Officers") and may consist of one or more Vice Presidents and such other officers as the Board of Directors may from time to time determine, each of whom shall be elected by the Board of Directors, each to have such authority, functions or duties as set forth in these Bylaws or as determined by the Board of Directors. Each Designated Officer shall be elected by the Board of Directors and shall hold office for such term as may be prescribed by the Board of Directors and until such person's successor shall have been duly elected and qualified, or until such person's earlier death, disqualification, resignation or removal. Any other officer may be elected by the Board or appointed by the Chief Executive Officer. Any number of offices may be held by the same person; provided, however, that no officer shall execute, acknowledge or verify any instrument in more than one capacity if such instrument is required by law, the Certificate of Formation or these Bylaws to be executed, acknowledged or verified by two or more officers. The Board of Directors may require any officer, agent or employee to give security for the faithful performance of his or her duties.

Section 5.2 Compensation. The salaries of the officers of the Corporation and the manner and time of the payment of such salaries shall be fixed and determined by the Board of Directors or by a duly authorized officer and may be altered by the Board of Directors from time to time as it deems appropriate, subject to the rights, if any, of such officers under any contract of employment.

Section 5.3 Removal, Resignation and Vacancies. Any officer of the Corporation elected by the Board may be removed, with or without cause, by the Board of Directors, without prejudice to the rights, if any, of such officer under any contract to which such officer is a party. Any other officer of the Corporation may be removed, with or without cause, by the Board of Directors or by a duly authorized officer, without prejudice to the rights, if any, of such officer under any contract to which such officer is a party. Any officer may resign at any time upon notice given in writing or by electronic transmission to the Corporation, without prejudice to the rights, if any, of the Corporation under any contract to which such officer is a party. If any vacancy occurs in any office of the

Corporation, the Board of Directors may elect a successor to fill such vacancy for the remainder of the unexpired term and until a successor shall have been duly elected and qualified.

Section 5.4 Chief Executive Officer. The Chief Executive Officer shall have general supervision and direction of the business and affairs of the Corporation, shall be responsible for corporate policy and strategy, and shall report directly to the Board of Directors. Unless otherwise provided in these Bylaws or determined by the Board of Directors, all other officers of the Corporation shall report directly to the Chief Executive Officer or as otherwise determined by the Chief Executive Officer. The Chief Executive Officer, if not the Chairman of the Board of Directors, shall, if present and in the absence of the Chairman of the Board of Directors, preside at meetings of the shareholders.

Section 5.5 Chief Operating Officer. The Chief Operating Officer shall have general responsibility for the management and control of the operations of the Corporation. The Chief Operating Officer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors or the Chief Executive Officer may from time to time determine.

Section 5.6 Chief Financial Officer. The Chief Financial Officer shall exercise all the powers and perform the duties of the office of the chief financial officer and in general have overall supervision of the financial operations of the Corporation. The Chief Financial Officer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer or the Chief Operating Officer may from time to time determine.

Section 5.7 Vice Presidents. Each Vice President shall have such powers and duties as shall be prescribed by his or her superior officer, the Chief Executive Officer or the Chief Operating Officer. A Vice President shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer, the Chief Operating Officer or another duly authorized officer may from time to time determine.

Section 5.8 Treasurer. The Treasurer shall supervise and be responsible for all the funds and securities of the Corporation, the deposit of all monies and other valuables to the credit of the Corporation in depositories of the Corporation, borrowings and compliance with the provisions of all indentures, agreements and instruments governing such borrowings to which the Corporation is a party, the disbursement of funds of the Corporation and the investment of its funds, and in general shall perform all of the duties incident to the office of the Treasurer. The Treasurer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer, the Chief Operating Officer or the Chief Financial Officer may from time to time determine.

Section 5.9 Controller. The Controller shall be the chief accounting officer of the Corporation. The Controller shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer or the Treasurer may from time to time determine.

Section 5.10 Secretary. The powers and duties of the Secretary are: (i) to act as Secretary at all meetings of the Board of Directors, of the committees of the Board of Directors and of the shareholders and to record the proceedings of such meetings in a book or books to be kept for that purpose; (ii) to see that all notices required to be given by the Corporation are duly given and served; (iii) to act as custodian of the seal of the Corporation and affix the seal or cause it to be affixed to all certificates of stock of the Corporation and to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws; (iv) to have charge of the books, records and papers of the Corporation and see that the reports, statements and other documents required by law to be kept and filed are properly kept and filed; and (v) to perform all of the duties incident to the office of Secretary. The Secretary shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as the Board of Directors, the Chief Executive Officer or the Chief Operating Officer may from time to time determine.

Section 5.11 Additional Matters. The Chief Executive Officer and the Chief Financial Officer of the Corporation shall have the authority to designate employees of the Corporation to have the title of Vice President, Assistant Vice President, Assistant Treasurer or Assistant Secretary. Any employee so designated shall have the powers and duties determined by the officer making such designation. The persons upon whom such titles are conferred shall not be deemed officers of the Corporation unless elected by the Board of Directors.

Section 5.12 Checks; Drafts; Evidences of Indebtedness. From time to time, the Board of Directors shall determine the method, and designate (or authorize officers of the Corporation to designate) the person or persons who shall have authority, to sign or endorse all checks, drafts, other orders for payment of money and notes, bonds, debentures or other evidences of indebtedness that are issued in the name of or payable by the Corporation, and only the persons so authorized shall sign or endorse such instruments.

Section 5.13 Corporate Contracts and Instruments; How Executed. Except as otherwise provided in these Bylaws, the Board of Directors may determine the method, and designate (or authorize officers of the Corporation to designate) the person or persons who shall have authority to enter into any contract or execute any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless so authorized, or within the power incident to a person's office or other position with the Corporation, no person shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 5.14 Signature Authority. Unless otherwise determined by the Board of Directors or otherwise provided by law or these Bylaws, contracts, evidences of indebtedness and other instruments or documents of the Corporation may be executed, signed or endorsed: (i) by the Chief Executive Officer or the Chief Operating Officer; or (ii) by the Chief Financial Officer, any Vice President, Treasurer, Secretary or Controller, in each case only with regard to such instruments or documents that pertain to or relate to such person's duties or business functions.

Section 5.15 Action with Respect to Securities of Other Corporations or Entities. The Chief Executive Officer or any other officer of the Corporation authorized by the Board of Directors or the Chief Executive Officer is authorized to vote, represent, and exercise on behalf of the Corporation all rights incident to any and all shares or other equity interests of any other corporation or entity or corporations or entities, standing in the name of the Corporation. The authority herein granted may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by the person having such authority.

Section 5.16 Delegation. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding the foregoing provisions of this Article V.

ARTICLE VI
INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

Section 6.1 Right to Indemnification.

(a) Each person who was or is a party or is threatened to be made a party to, or was or is otherwise involved in, any action, suit, arbitration, alternative dispute resolution mechanism, investigation, inquiry, judicial, administrative or legislative hearing, or any other threatened, pending or completed proceeding, whether brought by or in the right of the Corporation or otherwise, including any and all appeals, whether of a civil, criminal, administrative, legislative, investigative or other nature (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation or while a director or officer of the Corporation is or was serving at the request of the Corporation as a director, officer, employee, agent or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter each an "indemnitee"), or by reason of anything done or not done by him or

her in any such capacity, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the TBOC, as the same exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes, penalties and amounts paid in settlement by or on behalf of the indemnitee) actually and reasonably incurred by such indemnitee in connection therewith, all on the terms and conditions set forth in these Bylaws; provided, however, that, except as otherwise required by law or provided in Section 6.4 with respect to suits to enforce rights under this Article VI, the Corporation shall indemnify any such indemnitee in connection with a proceeding, or part thereof, voluntarily initiated by such indemnitee (including claims and counterclaims, whether such counterclaims are asserted by: (i) such indemnitee; or (ii) the Corporation in a proceeding initiated by such indemnitee) only if such proceeding, or part thereof, was authorized or ratified by the Board of Directors or the Board of Directors otherwise determines that indemnification or advancement of expenses is appropriate.

(b) To receive indemnification under this Article VI, an indemnitee shall submit a written request to the Secretary of the Corporation. Such request shall include documentation or information that is necessary to determine the entitlement of the indemnitee to indemnification and that is reasonably available to the indemnitee. Upon receipt by the Secretary of the Corporation of such a written request, unless indemnification is required by Section 6.3, the entitlement of the indemnitee to indemnification shall be determined by the following person or persons who shall be empowered to make such determination, as selected by the Board of Directors (except with respect to clause (v) of this Section 6.1(b)): (i) the Board of Directors by a majority vote of the directors who at the time of the vote are disinterested and independent, whether or not such majority constitutes a quorum; (ii) a committee consisting solely of such directors designated by a majority vote of such directors, whether or not such majority constitutes a quorum; (iii) special legal counsel selected by such directors or such committee, in a written opinion to the Board of Directors, a copy of which shall be delivered to the indemnitee; (iv) the shareholders of the Corporation in a vote that excludes the shares held by each director who is not disinterested and independent, or by a unanimous vote of the shareholders; or (v) in the event that a change of control (as defined below) has occurred, by special legal counsel selected as provided in clause (iii), in a written opinion to the Board of Directors, a copy of which shall be delivered to the indemnitee. The determination of entitlement to indemnification shall be made and, unless a contrary determination is made, such indemnification shall be paid in full by the Corporation not later than 60 days after receipt by the Secretary of the Corporation of a written request for indemnification. For purposes of this Section 6.1(b), a "change of control" will be deemed to have occurred if, with respect to any particular 24-month period, the individuals who, at the beginning of such 24-month period, constituted the Board of Directors (the "incumbent board"), cease for any reason to constitute at least a majority of the Board of Directors; provided, however, that any individual becoming a director subsequent to the beginning of such 24-month period whose election, or nomination for election by the shareholders of the Corporation, was approved by a vote of at least a majority of the directors then comprising the incumbent board shall be considered as though such individual were a member of the incumbent board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board of Directors.

Section 6.2 Right to Advancement of Expenses.

(a) In addition to the right to indemnification conferred in Section 6.1, an indemnitee shall, to the fullest extent permitted by law, also have the right to be paid by the Corporation the expenses (including attorneys' fees) incurred in defending any proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that an advancement of expenses shall be made only upon delivery to the (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision of a court of competent jurisdiction from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Article VI or otherwise.

(b) To receive an advancement of expenses under this Section 6.2, an indemnitee shall submit a written request to the Secretary of the Corporation. Such request shall reasonably evidence the expenses incurred by the indemnitee

and shall include or be accompanied by such written affirmation, if required, and an undertaking required by Section 6.2(a). Each such advancement of expenses shall be made within 20 days after the receipt by the Secretary of the Corporation of a written request for advancement of expenses.

(c) Notwithstanding the foregoing Section 6.2(a), the Corporation shall not make or continue to make advancements of expenses to an indemnitee (except by reason of the fact that the indemnitee is or was a director of the Corporation, in which event this Section 6.2(c) shall not apply) if a determination is reasonably made that the facts known at the time such determination is made demonstrate clearly and convincingly that the indemnitee acted in bad faith or in a manner that the indemnitee did not reasonably believe to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal proceeding, that the indemnitee had reasonable cause to believe his or her conduct was unlawful. Such determination shall be made: (i) by the Board of Directors by a majority vote of the directors who at the time of the vote are disinterested and independent, whether or not such majority constitutes a quorum; (ii) by a committee consisting solely of such directors designated by a majority vote of such directors, whether or not such majority constitutes a quorum; or (iii) if there are no such directors, or if such directors so direct, by special legal counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the indemnitee.

Section 6.3 Indemnification for Successful Defense. To the extent that an indemnitee has been successful on the merits or otherwise in defense of any proceeding (or in defense of any claim, issue or matter therein), such indemnitee shall be indemnified under this Section 6.3 against expenses (including attorneys' fees) actually and reasonably incurred in connection with such defense. Indemnification under this Section 6.3 shall not be subject to satisfaction of a standard of conduct, and the Corporation may not assert the failure to satisfy a standard of conduct as a basis to deny indemnification or recover amounts advanced, including in a suit brought pursuant to Section 6.4 (notwithstanding anything to the contrary therein); provided, however, that any indemnitee who is not a current or former director or officer of the Corporation shall be entitled to indemnification under Section 6.1 and this Section 6.3 only if such indemnitee has satisfied the standard of conduct required for indemnification under Section 8.101(a)(1) of the TBOC.

Section 6.4 Right of Indemnitee to Bring Suit. In the event that a determination is made that the indemnitee is not entitled to indemnification or if payment is not timely made following a determination of entitlement to indemnification pursuant to Section 6.1(b), if a request for indemnification under Section 6.3 is not paid in full by the Corporation within 60 days after a written request has been received by the Secretary of the Corporation, or if an advancement of expenses is not timely made under Section 6.2(b), the indemnitee may at any time thereafter bring suit against the Corporation in a court of competent jurisdiction in accordance with Article XI of the Certificate of Formation seeking an adjudication of entitlement to such indemnification or advancement of expenses. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit to the fullest extent permitted by law. In any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that the indemnitee has not met any applicable standard of conduct necessary for indemnification under Chapter 8 of the TBOC or that indemnification is prohibited by Section 8.102 of the TBOC or other applicable law. Further, in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that the indemnitee has not met any applicable standard of conduct necessary for indemnification under Chapter 8 of the TBOC or that indemnification is prohibited by Section 8.102 of the TBOC or other applicable law. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its shareholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met such applicable standard of conduct, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its shareholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has

not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under applicable law, this Article VI or otherwise shall be on the Corporation.

Section 6.5 Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any law, agreement, vote of shareholders or disinterested directors, provisions of the Certificate of Formation or these Bylaws, or otherwise.

Section 6.6 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the TBOC.

Section 6.7 Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent and in the manner permitted by law, and to the extent authorized from time to time, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation.

Section 6.8 Nature of Rights. The rights conferred upon indemnitees in this Article VI shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director or officer and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, alteration or repeal.

Section 6.9 Settlement of Claims. Notwithstanding anything in this Article VI to the contrary, the Corporation shall not be liable to indemnify any indemnitee under this Article VI for any amounts paid in settlement of any proceeding effected without the Corporation's written consent, which consent shall not be unreasonably withheld.

Section 6.10 Subrogation. In the event of payment under this Article VI, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the indemnitee (excluding insurance obtained on the indemnitee's own behalf), and the indemnitee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Corporation effectively to bring suit to enforce such rights.

Section 6.11 Severability. If any provision or provisions of this Article VI shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law: (a) the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article VI (including, without limitation, all portions of any paragraph of this Article VI containing any such provision held to be invalid, illegal or unenforceable, that are not by themselves invalid, illegal or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article VI (including, without limitation, all portions of any paragraph of this Article VI 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 of the parties that the Corporation provide protection to the indemnitee to the fullest extent set forth in this Article VI.

ARTICLE VII
CAPITAL STOCK

Section 7.1 Certificates of Stock. The shares of the Corporation shall be represented by certificates; provided, however, that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the Corporation, including, without limitation, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Secretary, or an Assistant Treasurer or Assistant Secretary certifying the number of shares owned by such holder in the Corporation. Any or all such signatures may be facsimiles or PDF signatures. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Section 7.2 Special Designation on Certificates. If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights, and the authority of the Board of Directors to make determinations as to subsequent series, shall be set forth in full or summarized conspicuously on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock (or, in the case of uncertificated shares, set forth in a notice provided pursuant to the TBOC); provided, however, that, except as otherwise provided by applicable law, in lieu of the foregoing requirements there may be set forth conspicuously on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock (or, in the case of any uncertificated shares, included in the aforementioned notice) a statement that such information is set forth in the Certificate of Formation and that the Corporation will furnish without charge to each shareholder who so requests, including upon written request to the Corporation's principal place of business or registered office, the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights, and the authority of the Board of Directors to make determinations as to subsequent series. Within a reasonable time after the issuance or transfer of uncertificated stock, the registered owner thereof shall be given a notice, in writing or by electronic transmission, containing the information required by Section 3.205 of the TBOC. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

Section 7.3 Transfers of Stock. Transfers of shares of stock of the Corporation shall be made only on the books of the Corporation upon authorization by the registered holder thereof or by such holder's attorney thereunto authorized by a power of attorney duly executed and filed with the Secretary of the Corporation or a transfer agent for such stock, and if such shares are represented by a certificate, upon surrender of the certificate or certificates for such shares properly endorsed or accompanied by a duly executed stock transfer power and the payment of any taxes thereon; provided, however, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer.

Section 7.4 Lost Certificates. The Corporation may issue a new share certificate or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate or the owner's legal representative to give the Corporation a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares. The Board of Directors may adopt such other provisions and restrictions with reference to lost certificates, not inconsistent with applicable law, as it shall in its discretion deem appropriate.

Section 7.5 Registered Shareholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by law.

Section 7.6 Record Date for Determining Shareholders.

(a) In order that the Corporation may determine the shareholders entitled to notice of any meeting of shareholders or any adjourned meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than 60 nor less than 10 days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the shareholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date at least 10 days before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining shareholders entitled to notice of and to vote at a meeting of shareholders shall be at the close of business on the day immediately preceding the day on which notice is given, or, if notice is waived, at the close of business on the day immediately preceding the day on which the meeting is held. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjourned meeting; provided, however, that the Board of Directors may fix a new record date for the determination of shareholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for shareholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of shareholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the shareholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 days prior to such action. If no such record date is fixed, the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(c) Unless otherwise restricted by the Certificate of Formation (including any Preferred Stock Resolution), in order that the Corporation may determine the shareholders entitled to express consent to corporate action without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining shareholders entitled to express consent to corporate action without a meeting, when no prior action of the Board of Directors is required by law, shall be the first date on which a signed consent setting forth the action taken or proposed to be taken was delivered to the Corporation in accordance with Section 2.11 and the TBOC. If no record date has been fixed by the Board of Directors, the record date for determining shareholders entitled to express consent to corporate action without a meeting, if prior action by the Board of Directors is required by law, shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 7.7 Regulations. To the extent permitted by applicable law, the Board of Directors may make such additional rules and regulations as it may deem expedient concerning the issue, transfer and registration of shares of stock of the Corporation.

Section 7.8 Waiver of Notice. Whenever notice is required to be given under any provision of the TBOC or the Certificate of Formation or these Bylaws, a written waiver, signed by the person entitled to notice, or a waiver by

electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the shareholders, the Board of Directors or a committee of the Board of Directors need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate of Formation or these Bylaws.

ARTICLE VIII
GENERAL MATTERS

Section 8.1 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January of each year and end on the last day of December of the same year, or shall extend for such other 12 consecutive months as the Board of Directors may designate.

Section 8.2 Corporate Seal; Records. The Board of Directors may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary of the Corporation. If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by an Assistant Secretary or Assistant Treasurer. Any records and documents required by law to be kept by the Corporation permanently or administered by the Corporation in the regular course of business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and, with respect to the stock ledger, the records so kept comply with all applicable requirements of the TBOC. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to applicable law.

Section 8.3 Reliance upon Books, Reports and Records. Each director and each member of any committee designated by the Board of Directors shall, in the performance of his or her duties, be fully protected in relying in good faith and with ordinary care upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 8.4 Subject to Law and Certificate of Formation. All powers, duties and responsibilities provided for in these Bylaws, whether or not explicitly so qualified, are qualified by the Certificate of Formation (including any Preferred Stock Resolution) and applicable law.

Section 8.5 Electronic Signatures, etc. Except as otherwise required by the Certificate of Formation (including as otherwise required by any Preferred Stock Resolution) or these Bylaws (including, without limitation, as otherwise required by Section 2.14), any document, including, without limitation, any consent, agreement, certificate or instrument, required by the TBOC, the Certificate of Formation (including any Preferred Stock Resolution) or these Bylaws to be executed by any officer, director, shareholder, employee or agent of the Corporation may be executed using a facsimile or other form of electronic signature to the fullest extent permitted by applicable law. All other contracts, agreements, certificates or instruments to be executed on behalf of the Corporation may be executed using a facsimile or other form of electronic signature to the fullest extent permitted by applicable law. The terms "electronic transmission" and "signature" as used herein shall have the meanings ascribed thereto in Section 1.002 of the TBOC. An "electronic mail" means an electronic transmission directed to a unique electronic mail address (which electronic mail shall be deemed to include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of

an officer or agent of the Corporation who is available to assist with accessing such files and information). An "electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part" of the address) and a reference to an internet domain (commonly referred to as the "domain part" of the address), whether or not displayed, to which electronic mail can be sent or delivered.

Section 8.6 Elections. The Corporation affirmatively elects to be governed by Section 21.419 of the TBOC and any successor provision thereto. During any time that the Corporation has its common stock listed on a national securities exchange (as defined in Section 1.002(55-a) of the TBOC) or has 500 or more shareholders and elects to be governed by Section 21.419 of the TBOC, the required ownership threshold for purposes of Section 21.552(a)(3) of the TBOC shall be three percent (3%) of the outstanding shares of common stock of the Corporation.

ARTICLE IX
AMENDMENTS

Section 9.1 Amendments. In furtherance and not in limitation of the powers conferred by the laws of the State of Texas, the Board of Directors is expressly authorized to adopt, amend or repeal these Bylaws. Except as otherwise provided in the Certificate of Formation (including the terms of any Preferred Stock Resolution that provides for a greater or lesser vote) or these Bylaws, and in addition to any other vote required by law, the affirmative vote of at least 66⅔% of the voting power of the stock outstanding and entitled to vote thereon, voting together as a single class, shall be required for the shareholders to adopt, amend or repeal, or adopt any provision inconsistent with, any provision of these Bylaws.

The foregoing Bylaws were adopted by the Board of Directors effective [ ], 2026.