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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): July 31, 2024

Alcoa Corporation
(Exact name of Registrant as Specified in Its Charter)

Delaware	1-37816	81-1789115
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)
201 Isabella Street, Suite 500 Pittsburgh, Pennsylvania (Address of Principal Executive Offices)		15212-5858 (Zip Code)

Registrant's Telephone Number, Including Area Code: (412) 315-2900

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value $0.01 per share	AA	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

INTRODUCTORY NOTE

As previously disclosed, on March 11, 2024 (Eastern Daylight Time) / March 12, 2024 (Australian Eastern Daylight Time), Alcoa Corporation, a Delaware corporation ("**Alcoa**") entered into a Scheme Implementation Deed, as amended and restated by the Deed of Amendment and Restatement, dated as of May 20, 2024 (the "**Agreement**"), by and among Alcoa, AAC Investments Australia 2 Pty Ltd, an Australian proprietary company limited by shares and an indirect wholly owned subsidiary of Alcoa ("**Alcoa Bidder**"), and Alumina Limited, an Australian public company limited by shares and listed on the Australian Securities Exchange ("**Alumina Limited**").

On August 1, 2024, the transactions (collectively, the "**Transaction**") contemplated by the Agreement were consummated by way of a court-approved scheme of arrangement (the "**Scheme**") under Part 5.1 of Australia's Corporations Act 2001 (Cth), pursuant to which Alcoa Bidder acquired all Alumina ordinary shares on issue and outstanding (the "**Alumina Shares**") and Alumina Limited became a direct wholly-owned subsidiary of Alcoa Bidder and indirect wholly-owned subsidiary of Alcoa. Under the Scheme, the holders of Alumina Shares (the "**Scheme Participants**") received, for each such Alumina Share, 0.02854 Alcoa CHESS Depositary Interests ("**New Alcoa CDIs**"), each such New Alcoa CDI representing an ownership interest in a share of Alcoa common stock, except that, (i) in the case of Alumina Shares represented by American Depositary Shares, each of which represented 4 Alumina Shares, the applicable depositary (or its custodian) received, in lieu of the New Alcoa CDIs, for each Alumina Share, 0.02854 shares of Alcoa common stock, (ii) where the Scheme Participant resides in certain jurisdictions (each, an "**Ineligible Foreign Shareholder**"), the shares of Alcoa common stock were transferred to a sale nominee (the "**Sale Nominee**"), and such Ineligible Foreign Shareholder will receive its pro rata share of the net cash proceeds of the sale by the Sale Nominee of shares of Alcoa common stock that all such Ineligible Foreign Shareholders would have otherwise been entitled to receive in the form of New Alcoa CDIs and (iii) where the Scheme Participant is a certain affiliate of CITIC Group (the "**CITIC Participant**"), such CITIC Participant received, in lieu of the New Alcoa CDIs, for each Alumina Share, 0.02854 shares of newly-issued non-voting convertible preferred stock, par value $0.01 per share, of Alcoa, which non-voting convertible preferred stock is convertible into shares of Alcoa common stock on a one-for-one basis (the "**New Alcoa Preferred Stock**"). In connection with the Transaction, Alcoa issued 78,772,422 shares of Alcoa common stock (including 78,403,132 shares of Alcoa common stock underlying the New Alcoa CDIs) and 4,041,989 shares of New Alcoa Preferred Stock.

The issuance of Alcoa common stock and New Alcoa Preferred Stock upon implementation of the Scheme was exempt from registration pursuant to Section 3(a)(10) of the Securities Act. The proxy statement, filed with the U.S. Securities and Exchange Commission (the "**SEC**") on June 6, 2024 (the "**Proxy Statement**"), and the supplemental disclosures to the Proxy Statement included in the Form 8-K filed with the SEC on July 8, 2024, contain additional information about the Transaction, including the issuance of Alcoa common stock and New Alcoa Preferred Stock.

The shares of Alcoa common stock issued in the Transaction are listed on the New York Stock Exchange and the New Alcoa CDIs are quoted on the Australian Stock Exchange.

The foregoing description of the Agreement is not complete and is qualified in its entirety by reference to the Agreement, a copy of which is filed as Exhibit 2.1 to this Current Report and which is incorporated herein by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The information set forth in the Introductory Note of this Current Report is incorporated into this Item 2.01 by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On August 1, 2024 and as a result of the completion of the Transaction, Alumina Limited, which is party to a Syndicated Revolving Cash Advance Facility Agreement by and among Alumina Limited, Australia and New Zealand Banking Group Limited, Westpac Banking Corporation and Commonwealth Bank of Australia, dated as of December 2, 2013, as amended (the "**Facility Agreement**"), became an indirect wholly-owned subsidiary of Alcoa. Under the Facility Agreement, Alumina Limited has a $500 million revolving facility with tranches maturing in October 2025, January 2026, July 2026 and June 2027. As of August 1, 2024, Alumina Limited had drawn $100,000,000 under the tranche maturing in October 2025, $150,000,000 under the tranche maturing in January 2026, $135,000,000 under the tranche maturing in July 2026 and $0 under the tranche maturing in June 2027.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth in the Introductory Note of this Current Report is incorporated into this Item 3.02 by reference.

Item 3.03 Material Modification to Rights of Security Holders.

In connection with the Transaction, on July 31, 2024, Alcoa filed a Certificate of Designation with the Secretary of State of the State of Delaware, pursuant to which 4,041,989 shares of New Alcoa Preferred Stock were issued. The Certificate of Designation provides, among other things, the following items:

Ranking: The liquidation preference of the New Alcoa Preferred Stock will equal $0.0001 per share. The New Alcoa Preferred Stock will rank senior to the Alcoa common stock in the event of a distribution of assets upon dissolution, liquidation or winding up of Alcoa to the extent of its liquidation preference. Otherwise, the New Alcoa Preferred Stock will rank, as to the payment of dividends and distribution of assets upon dissolution, liquidation or winding up of Alcoa, (i) senior to any class or series of capital stock of Alcoa thereafter created specifically ranking by its terms junior to any shares of New Alcoa Preferred Stock, (ii) *pari passu* with the Alcoa common stock and any class or series of capital stock of Alcoa created (x) specifically ranking by its terms on parity with the New Alcoa Preferred Stock or (y) that does not by its terms rank junior or senior to the New Alcoa Preferred Stock and (iii) junior to any class or series of capital stock of Alcoa thereafter created specifically ranking by its terms senior to any shares of the New Alcoa Preferred Stock.

Cash Dividend/Distribution Rights: Holders of the New Alcoa Preferred Stock will participate in cash dividends or distributions (subject to certain exceptions for distributions in kind) alongside the Alcoa common stock on an as-converted basis.

Voting: The holders of the New Alcoa Preferred Stock will have no voting rights, except as may be required by applicable law and except as set forth below.

So long as any shares of New Alcoa Preferred Stock are outstanding, Alcoa may not, without the affirmative vote or written consent of at least a majority of the outstanding shares of New Alcoa Preferred Stock, voting as a single and separate class, amend, alter or repeal any provision of the Certificate of Designation or Certificate of Incorporation of Alcoa or Alcoa's bylaws (by any means, including by merger, consolidation, reclassification, or otherwise) so as to, or in a manner that would, change the rights or preferences of the New Alcoa Preferred Stock.

Mergers; Reorganizations: In the event of a merger, reorganization, sale of substantially all assets of Alcoa or similar event where the Alcoa common stock is exchanged for securities and cash (a "**Reorganization Event**"), the New Alcoa Preferred Stock will be automatically converted into the types and amounts of securities and cash that is or was receivable in such Reorganization Event by a holder of the number of shares of Alcoa common stock into which such share of New Alcoa Preferred Stock was convertible immediately prior to such Reorganization Event in exchange for such shares of Alcoa common stock; however, if after giving effect to such conversion, Bestbuy Overseas Co. Ltd. and its affiliates ("**CITIC**") would collectively hold more than 4.9% of any class of voting securities of another entity that is impermissible for CITIC to hold under the Bank Holding Company Act of 1956 (the "**BHCA**"), then, at Alcoa's election, Alcoa may redeem the portion of New Alcoa Preferred Stock that would cause CITIC and its affiliates to collectively hold more than 4.9% of any class of voting securities of another entity that is impermissible for CITIC to hold under the BHCA at a cash price per share of New Alcoa Preferred Stock equal to the product of the Applicable Conversion Rate (as defined below) and the "fair market value" of the Alcoa common stock.

The holders of the New Alcoa Preferred Stock will not have any separate class vote on any Reorganization Event.

Conversion: In the event of a Convertible Transfer (as defined below) to certain non-affiliates of a holder of New Alcoa Preferred Stock, each share of such holder's New Alcoa Preferred Stock will convert into shares of Alcoa common stock at a rate of one share of New Alcoa Preferred Stock to one share of Alcoa common stock (the "**Applicable Conversion Rate**") no later than the second business day after Alcoa receives a valid notice of Convertible Transfer and conversion from the holder.

A "**Convertible Transfer**" is a transfer by the holder of New Alcoa Preferred Stock: (i) to Alcoa; (ii) in a widely distributed public offering of the Alcoa common stock issuable upon conversion of the New Alcoa Preferred Stock; (iii) in a transaction or series of related transactions in which no one transferee (or group of associated transferees) acquires 2% or more of any class of Alcoa's then outstanding voting securities; or (iv) to a transferee that controls more than 50% of every class of Alcoa's then outstanding voting securities without giving effect to such transfer.

Subject to certain limitations, CITIC will have the right to elect to convert its shares of New Alcoa Preferred Stock into shares of Alcoa common stock at the Applicable Conversion Rate if an action by Alcoa (*e.g.*, a new stock issuance) has the effect of reducing CITIC's voting percentage in Alcoa common stock.

The foregoing description of the Certificate of Designation does not purport to be complete and is qualified in its entirety by reference to the full text of the Certificate of Designation, which is filed as Exhibit 3.1 to this Current Report and is incorporated into this Item 3.03 by reference. The information set forth in the Introductory Note of this Current Report is also incorporated into this Item 3.03 by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Pursuant to the Agreement, Alcoa is required to appoint two existing Alumina Limited board members who are Australian residents or citizens to join the board of directors of Alcoa (the "**Board**"), and whose identity is mutually agreed by Alcoa and Alumina Limited, effective on and from the implementation date of the Scheme. On July 31, 2024 and in connection with the Transaction, the Board increased the size of the Board from ten to twelve directors and appointed John Bevan and Alistair Field (the "**New Alcoa Directors**"), who were directors of Alumina Limited prior to the consummation of the Transaction, as additional members of the Board, effective as of 5:00 p.m. on August 1, 2024 (the "**Effective Date**"). In connection therewith, the Board also appointed John Bevan and Alistair Field to serve as members of the Safety, Sustainability and Public Issues Committee, effective on the Effective Date.

Each of the New Alcoa Directors will participate in Alcoa's non-employee director compensation program, which is described on page 24 of Alcoa's proxy statement for its 2024 Annual Meeting of Stockholders, filed with the SEC on March 19, 2024. In connection with their appointments to the Board, each New Alcoa Director will receive a pro-rated annual cash retainer and a pro-rated grant of restricted stock units ("**RSUs**"). The RSU awards granted to each of the New Alcoa Directors will generally vest on the date of Alcoa's 2025 Annual Meeting of Stockholders. In addition, Alcoa will enter into its standard form of indemnification agreement with each of the New Alcoa Directors. The New Alcoa Directors do not have any direct or indirect material interest in any transaction or proposed transaction required to be reported under Item 404(a) of Regulation S-K.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On July 31, 2024, the Board approved the Amended and Restated Bylaws of Alcoa Corporation, effective as of such date (the "**Amended and Restated Bylaws**"). Among other updates, the Amended and Restated Bylaws:

- remove the "acting in concert" definition and amend provisions in Section 2.9(C)(1)(a)—(c) and Section 9.1(E)(2), so that a stockholder does not have any requirement to disclose information with respect to "others acting in concert" in a stockholder's notice provided in connection with any nominations or business at an annual meeting of stockholders;
- clarify that, if the first public announcement of the date of a special meeting to nominate directors is less than 100 days prior to the date of such special meeting, a stockholder notice to nominate directors must be delivered by the 10th day following the day on which the public announcement is first made of the date of the special meeting, removing the proviso that the nominees of the Board also be included in that public announcement;
- remove from the required information in stockholder nomination notices information relating to (i) performance-related fees payable to the stockholder, and (ii) equity interests or derivative instruments held by the stockholder in a competitor company;
- clarify that the form of written questionnaire required for a person nominated by a stockholder for election or reelection to the Board be the same as that required of the Board's director nominees;
- remove the provision regarding the expectation that a director tender his/her resignation upon a determination by the Board that the information provided to Alcoa in the nomination materials contained materially misleading statements or omissions;
- remove the ability of stockholders to elect a chairman to preside at a stockholder meeting in circumstances where (i) no chairman is designated by the Board, (ii) the Chairman of the Board or the Chief Executive Officer is absent or unable to act, (iii) if both of the foregoing are absent or unable to act, the President is absent or unable to act, and (iv) if the President is absent or unable to act, a Vice President is absent or unable to act; and
- permit the chairman of a stockholder meeting to restrict entry to the meeting beyond restricting only after the time fixed for the commencement thereof.

The foregoing description of the Amended and Restated Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the Amended and Restated Bylaws, which is filed as Exhibit 3.2 to this Current Report and is incorporated into this Item 5.03 by reference.

The information set forth in Item 3.03 of this Current Report is incorporated into this Item 5.03 by reference.

Item 8.01 Other Events.

On August 1, 2024, Alcoa issued a press release announcing the consummation of the Transaction. A copy of the press release is furnished as Exhibit 99.1 hereto and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(a) Financial Statements of Business Acquired.

The audited financial statements of Alumina Limited for the years ended December 2023, 2022 and 2021 and the related report of PricewaterhouseCoopers, Alumina Limited's independent registered public accounting firm, and the condensed interim consolidated financial statements of Alumina Limited for the quarter ended March 31, 2024, appearing in Annex C to Alcoa's Proxy Statement on Schedule 14A, filed with the SEC on June 6, 2024, are incorporated herein by reference as Exhibit 99.2.

The consent of PricewaterhouseCoopers to the incorporation by reference in certain of Alcoa's registration statements of its report included in Exhibit 99.2 is filed as Exhibit 23.1 hereto.

(b) Pro Forma Financial Information.

The following unaudited pro forma condensed combined financial information is filed as Exhibit 99.3 hereto and is incorporated herein by reference.

- Unaudited Pro Forma Condensed Combined Statement of Operations for the Quarter Ended March 31, 2024;
- Unaudited Pro Forma Condensed Combined Statement of Operations for the Year Ended December 31, 2023;
- Unaudited Pro Forma Condensed Combined Balance Sheet as of March 31, 2024; and
- Notes to the Unaudited Pro Forma Combined Financial Information.

(d) Exhibits

Exhibit Number	Description of Exhibit
2.1	Deed of Amendment and Restatement of the Scheme Implementation Deed, dated as of May 20, 2024, by and among Alcoa Corporation, AAC Investments Australia 2 Pty Ltd and Alumina Limited (incorporated by reference to Exhibit 2.1 to Alcoa Corporation's Current Report on Form 8-K filed with the SEC on May 20, 2024)
3.1*	Certificate of Designation
3.2*	Amended and Restated Bylaws of Alcoa Corporation, as adopted on July 31, 2024
23.1*	Consent of PricewaterhouseCoopers, the independent registered public accounting firm for Alumina Limited
99.1*	Press Release issued by Alcoa Corporation
99.2	Historical audited financial statements of Alumina Limited for the years ended December 31, 2023, 2022 and 2021 and condensed interim consolidated financial statements of Alumina Limited for the quarter ended March 31, 2024 (incorporated by reference to Alcoa Corporation's Proxy Statement on Schedule 14A, filed with the SEC on June 6, 2024)
99.3*	Unaudited pro forma condensed combined financial information of Alcoa Corporation
104	Cover Page Interactive Data File, formatted in inline XBRL.

*Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: August 1, 2024

ALCOA CORPORATION

By: /s/ Marissa P. Earnest
Name: Marissa P. Earnest
Title: Senior Vice President, Chief Governance Counsel and Secretary

Exhibit 3.1

CERTIFICATE OF DESIGNATION OF
SERIES A CONVERTIBLE PREFERRED STOCK OF
ALCOA CORPORATION

(Pursuant to Section 151 of the General Corporation Law of the State of Delaware)

ALCOA CORPORATION, a corporation organized and existing under the laws of the State of Delaware (hereinafter, the "Corporation"), hereby certifies that the following resolution was duly adopted by the Board of Directors of the Corporation (the "Board") (or a duly authorized committee thereof) as required by Section 151 of the General Corporation Law of the State of Delaware, as it may be amended:

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the authority expressly granted to and vested in the Board in accordance with the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, there is hereby created and provided out of the authorized but unissued preferred stock, par value $0.01 per share, of the Corporation ("Preferred Stock"), a new series of Preferred Stock, and there is hereby stated the number of shares to be included in such series and fixed the designations, powers, rights and preferences of the shares of such series, and the qualifications, limitations and restrictions, including, without limitation, voting rights (if any), dividend rights, dissolution rights, conversion rights, exchange rights and redemption rights, of such series as follows:

Section I. Designation.

There shall be a series of Preferred Stock that shall be designated as "Series A Convertible Preferred Stock," par value $0.01 per share (the "Non-Voting Preferred Stock") and the number of shares constituting such series shall be 10,000,000. The designations, powers, rights and preferences and the qualifications, limitations and restrictions of the Non-Voting Preferred Stock shall be as set forth herein. The Non-Voting Preferred Stock shall be issued in book-entry form on the Corporation's share ledger, subject to the rights of holders to receive certificated shares under the DGCL.

Section II. Definitions. For purposes hereof, the following terms shall have the following meanings, unless the context otherwise requires:

"Additional Issuance" has the meaning specified in Section III(b)(i).

"Additional Issuance Conversion Date" means the second Business Day following delivery of a valid Additional Issuance Notice.

"Additional Issuance Notice" has the meaning specified in Section III(b)(ii).

"Additional Shares of Common Stock" has the meaning specified in Section VII(c).

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person (as used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of voting securities, by contract or otherwise). Notwithstanding the foregoing, (a) neither the Corporation nor any of its Affiliates shall be deemed to be an Affiliate of CITIC or its Affiliates and (b) neither CITIC nor any of its Affiliates shall be deemed to be an Affiliate of the Corporation or any of its Affiliates.

"Applicable Conversion Rate" means the Initial Conversion Rate, subject to adjustment pursuant to Sections VII for any such event occurring subsequent to the initial determination of such rate.

"Authorized Repurchases" means the number of shares of Common Stock calculated by dividing the dollar amount of the remaining unused balance of any publicly disclosed share repurchase program of the Corporation by the Fair Market Value.

"BHCA" means the Bank Holding Company Act of 1956, as amended.

"BHCA Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

"Board" has the meaning specified in the preamble.

"Business Day" means any day, other than a Saturday, Sunday or other day on which banking institutions in the City of New York, New York are required or authorized by Law to be closed.

"Certificate of Designation" means this Certificate of Designation of the Non-Voting Preferred Stock of the Corporation.

"Certificate of Incorporation" means the Amended and Restated Certificate of Incorporation of the Corporation (as amended and/or restated from time to time).

"CITIC" means Bestbuy Overseas Co. Ltd.

"Class of Voting Security" shall be interpreted in a manner consistent with how "class of voting shares" is defined in 12 C.F.R. Section 225.2(q)(3) or any successor provision.

"Closing Date" means, with respect to any shares of Non-Voting Preferred Stock, the date that such shares of Non-Voting Preferred Stock are issued.

"Common Equivalent Dividend Amount" has the meaning specified in Section IV(a).

"Common Stock" means the common stock, par value $0.01 per share, of the Corporation.

"Conversion Date" means either the Additional Issuance Conversion Date or a Convertible Transfer Conversion Date, as applicable.

"Conversion Shares" has the meaning specified in Section III(a)(ii).

"Convertible Transfer" means a Transfer by the Holder (a) to the Corporation; (b) in a widely distributed public offering of Common Stock issuable upon conversion of the Non-Voting Preferred Stock; (c) in a transaction or series of related transactions in which no one transferee (or group of associated transferees) acquires two percent (2%) or more of any Class of Voting Securities of the Corporation then outstanding; or (d) to a transferee that controls more than fifty percent (50%) of every Class of Voting Securities of the Corporation then outstanding without giving effect to such Transfer.

"Convertible Transfer Conversion Date" means the date that a Convertible Transfer is consummated, which shall occur no later than the second Business Day following delivery of a valid Notice of Convertible Transfer and Conversion.

"Convertible Transfer Notice Documents" has the meaning specified in Section III(a)(ii).

"Corporation" means Alcoa Corporation.

"DGCL" means the General Corporation Law of the State of Delaware, as it may be amended.

"Exchange" has the meaning specified in Section IX(a).

"Exchange Notice" has the meaning specified in Section IX(a).

"Exchange Property" has the meaning specified in Section VIII(a).

"Exchanged Common Shares" has the meaning specified in Section IX(a).

"Fair Market Value" means the volume-weighted average price (as reported by Bloomberg L.P. or, if not reported therein, in another authoritative source mutually selected by the Holder and the Corporation) on the NYSE of the Common Stock for the five (5) prior trading days.

"Government Entity" means any (a) federal, state, local, municipal, foreign or other government; (b) governmental entity of any nature (including, without limitation, any governmental agency, branch, department, official, committee or entity and any court or other tribunal), whether foreign or domestic; or (c) body exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, whether foreign or domestic, including, without limitation, any arbitral tribunal and self-regulatory organizations.

"Holder" means the Person in whose name any shares of Non-Voting Preferred Stock are registered, which may be treated by the Corporation as the absolute owner of such shares of Non-Voting Preferred Stock for the purpose of making payment and settling conversion and for all other purposes.

"Initial Conversion Rate" means, for each share of Non-Voting Preferred Stock, one share of Common Stock.

"Junior Securities" has the meaning specified in Section VI(a).

"Law" means, with respect to any Person, any legal, regulatory and administrative laws, statutes, rules, Orders and regulations applicable to such Person.

"Liquidation Preference" means, for each share of Non-Voting Preferred Stock, an amount equal to $0.0001 (as adjusted for any split, subdivision, combination, consolidation, recapitalization or similar event with respect to the Non-Voting Preferred Stock).

"Maximum Conversion" has the meaning specified in Section IX(b).

"Non-BHCA Affiliate" means a Person that is both (a) not CITIC and (b) not a BHCA Affiliate of the Holder or CITIC.

"Non-Voting Preferred Stock" has the meaning specified in Section I.

"Notice of Convertible Transfer and Conversion" has the meaning specified in Section III(a)(ii).

"NYSE" means the New York Stock Exchange.

"Order" means any applicable order, injunction, judgment, decree, ruling, or writ of any Government Entity.

"Parity Securities" has the meaning specified in Section VI(a).

"Person" means an individual, corporation, partnership, limited partnership, limited liability company, syndicate, person (including a "person" as defined in Sections 13(d)(3) and 14(d) of the Exchange Act), trust, association or entity or government, political subdivision, agency or instrumentality of a government.

"Recent Outstanding Common Shares" means the number of shares of Common Stock outstanding as set forth on the balance sheet of the Corporation in its most recent periodic filing with the SEC.

"Record Date" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which Common Stock is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Board or a duly authorized committee of the Board or by statute, contract or otherwise).

"Reorganization Event" has the meaning specified in Section VIII(a).

"SEC" means the Securities and Exchange Commission.

"Senior Securities" has the meaning specified in Section VI(a).

"Share Repurchase" has the meaning specified in Section IX(a).

"Subject Preferred Share" has the meaning specified in Section III(a)(i).

"Transfer" by any Person means, directly or indirectly, to sell, transfer, assign, pledge, hypothecate, encumber or similarly dispose of or transfer (by merger, disposition, operation of law or otherwise), either voluntarily or involuntarily, or to enter into any contract, option or other arrangement, agreement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or other disposition or transfer (by merger, disposition, operation of Law or otherwise), of any interest in any equity securities beneficially owned by such Person.

"Voting Security" has the meaning set forth in 12 C.F.R. Section 225.2(q) or any successor provision.

Section III. Conversion.

(a) Conversion upon Convertible Transfer.

(i) Upon the terms and in the manner set forth in this Section III, on any Convertible Transfer Conversion Date for any Convertible Transfer to a Non-BHCA Affiliate, each share of Non-Voting Preferred Stock subject to such Convertible Transfer (each, a "Subject Preferred Share") will be converted into a number of fully-paid and non-assessable shares of Common Stock equal to the Applicable Conversion Rate. The Subject Preferred Shares so converted will be cancelled as described in Section XIII below.

(ii) To effect a Convertible Transfer, a Holder shall deliver to the Corporation a written notice (the "Notice of Convertible Transfer and Conversion") that (1) identifies the proposed transferee and manner and date of Transfer (which shall be two (2) Business Days following delivery of the Notice of Convertible Transfer and Conversion), the number of Subject Preferred Shares to be converted and the corresponding number of shares of Common Stock to be transferred (the "Conversion Shares"), (2) certifies that such Transfer is a Convertible Transfer and that the proposed transferee is a Non-BHCA Affiliate, (3) notifies the Corporation that such Holder is tendering the Subject Preferred Shares for conversion in accordance with this Certificate of Designation and (4) provides instructions for delivery of the Conversion Shares to the proposed transferee on the Convertible Transfer Conversion Date (collectively, the "Convertible Transfer Notice Documents"). The Notice of Convertible Transfer and Conversion must be received by the Corporation by 4:00 p.m. Eastern Time two (2) Business Days prior to the Convertible Transfer Conversion Date.

(iii) Following receipt of valid Convertible Transfer Notice Documents, on the Convertible Transfer Conversion Date, the Corporation shall effect the conversion of the Subject Preferred Shares by delivering the Conversion Shares in accordance with the instructions provided in the Notice of Convertible Transfer and Conversion.

(b) Conversion upon Additional Issuance.

(i) If any action by the Corporation, which may include the issuance of additional Common Stock (any such action, an "Additional Issuance"), has the effect of reducing the percentage of a Class of Voting Securities held by CITIC (together with its BHCA Affiliates), then CITIC may elect to convert each share of the Non-Voting Preferred Stock into a number of fully-paid and non-assessable shares of Common Stock equal to the Applicable Conversion Rate so long as such conversion does not allow CITIC (together with its BHCA Affiliates) to acquire a higher percentage of the Class of Voting Securities than (x) 4.9% or (y) if lower, the percentage of the Class of Voting Securities CITIC (together, with its BHCA Affiliates) controlled immediately prior to such conversion.

(ii) Upon CITIC's (or its Affiliates) election to convert the Non-Voting Preferred Stock pursuant to Section III(b)(i), CITIC shall deliver to the Corporation a written notice (the "Additional Issuance Notice") that notifies the Corporation that such Holder is tendering the Non-Voting Preferred Stock for conversion in accordance with Section III(b)(i) of this Certificate of Designation. Any such conversion shall be settled by the Corporation on the second Business Day following delivery of a valid Additional Issuance Notice in accordance with Section XVI.

(c) Immediately upon a conversion pursuant to Section III(a) or Section III(b), the rights of the Holders with respect to the shares of the Non-Voting Preferred Stock so converted shall cease and the Persons entitled to receive the shares of Common Stock upon the conversion of such shares of Non-Voting Preferred Stock shall be treated for all purposes as having become the record and beneficial owners of such shares of Common Stock. In the event that a Holder shall not by written notice designate the name in which shares of Common Stock and/or cash, securities or other property (including payments of cash in lieu of fractional shares) to be issued or paid upon conversion of the shares of Non-Voting Preferred Stock should be registered or paid or the manner in which such shares should be delivered, the Corporation shall be entitled to register and deliver such shares, and make such payment, in the name of the Holder and in the manner shown on the records of the Corporation.

(d) No fractional shares of Common Stock shall be issued upon any conversion of shares of Non-Voting Preferred Stock. If more than one share of Non-Voting Preferred Stock shall be surrendered for conversion at any one time by the same Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of Non-Voting Preferred Stock so surrendered. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of any shares of Non-Voting Preferred Stock, such fractional share will be rounded as follows: (i) if the fractional share is less than 0.5 shares, it will be rounded down to zero; and (ii) if the fractional entitlement is equal to or more than 0.5 shares, it will be rounded up to one.

(e) All shares of Common Stock which may be issued upon conversion of the shares of Non-Voting Preferred Stock will, upon issuance by the Corporation, be duly authorized, validly issued, fully paid and non-assessable, and not issued in violation of any preemptive right or Law.

(f) Effective immediately prior to the applicable Conversion Date, dividends or distributions shall no longer be declared on the shares of Non-Voting Preferred Stock subject to conversion and such shares of Non-Voting Preferred Stock shall cease to be outstanding, in each case, subject to the rights of Holders to receive any declared and unpaid dividends or distributions on such shares and any other payments to which they are otherwise entitled pursuant to Section IV.

Section IV. Dividend Rights.

(a) With respect to any Non-Voting Preferred Stock, from and after the Closing Date for such Non-Voting Preferred Stock to but excluding the applicable Conversion Date for such Non-Voting Preferred Stock, (i) the Holders shall be entitled to receive, when, as and if declared by the Board or any duly authorized committee of the Board, but only out of assets legally available therefor, all dividends or distributions (excluding any dividends or distributions that would adjust the Applicable Conversion Rate pursuant to Section VII or would constitute, or be part of, a Reorganization Event) declared and paid or made in respect of the shares of Common Stock, at the same time and on the same terms as holders of Common Stock, in an amount per share of Non-Voting Preferred Stock equal to the product of (x) the Applicable Conversion Rate then in effect and (y) any per share dividend or distribution, as applicable, declared and paid or made in respect of each share of Common Stock (the "Common Equivalent Dividend Amount"), and (ii) the Board or any duly authorized committee thereof may not declare and pay any such dividend or make any such distribution in respect of Common Stock unless the Board or any duly authorized committee of the Board declares and pays to the Holders, at the same time and on the same terms as holders of Common Stock, the Common Equivalent Dividend Amount per share of Non-Voting Preferred Stock.

Notwithstanding any provision in this Section IV(a) to the contrary, no Holder of a share of Non-Voting Preferred Stock shall be entitled to receive any dividend or distribution made with respect to the Common Stock where the Record Date for determination of holders of Common Stock entitled to receive such dividend or distribution occurs prior to the date of issuance of such share of Non-Voting Preferred Stock.

(b) Each dividend or distribution declared and paid pursuant to paragraph (a) above will be payable to Holders of record of shares of Non-Voting Preferred Stock as they appear in the records of the Corporation at the close of business on the same day as the Record Date for the corresponding dividend or distribution to the holders of shares of Common Stock.

(c) Except as set forth in this Certificate of Designation, the Corporation shall have no obligation to pay, and the holders of shares of Non-Voting Preferred Stock shall have no right to receive, dividends or distributions at any time.

(d) No interest or sum of money in lieu of interest will be payable in respect of any dividend payment or payments on shares of Non-Voting Preferred Stock that may be in arrears.

Notwithstanding any provision in this Certificate of Designation to the contrary, Holders shall not be entitled to receive any dividends or distributions on any shares of Non-Voting Preferred Stock on or after the applicable Conversion Date in respect of such shares of Non-Voting Preferred Stock that have been converted as provided herein, except to the extent that any such dividends or distributions have been declared by the Board or any duly authorized committee of the Board and the Record Date for such dividend occurs prior to such applicable Conversion Date (in which case, for the avoidance of doubt, Holders shall not be entitled to receive any such dividends or distributions in respect of the shares of Common Stock to which such shares of Non-Voting Preferred Stock have been converted).

Section V. Voting.

(a) Except as otherwise may be required by Law or as set forth in paragraph (b) below, the Holders shall not be entitled to vote on any matter submitted to a vote of the shareholders of the Corporation.

(b) So long as any shares of Non-Voting Preferred Stock are outstanding, the Corporation shall not, without the written consent or affirmative vote at a meeting called for that purpose by holders of at least a majority of the outstanding shares of Non-Voting Preferred Stock, voting as a single and separate class, amend, alter or repeal any provision of (A) this Certificate of Designation or (B) the Certificate of Incorporation or the Corporation's bylaws that would alter, modify or change the powers, preferences or special rights of the Non-Voting Preferred Stock, in each case, by any means, including, without limitation, by merger, consolidation, reclassification, or otherwise (other than in connection with a Reorganization Event where the shares of Non-Voting Preferred Stock will be converted in accordance with Section VIII) so as to, or in a manner that would, change the rights or preferences of the Non-Voting Preferred Stock.

(c) Notwithstanding the foregoing, the Holders shall not have any voting rights set out in paragraph (b) above if, at or prior to the effective time of the act with respect to which such vote would otherwise be required, all outstanding shares of Non-Voting Preferred Stock shall have been converted into shares of Common Stock.

Section VI. Rank; Liquidation.

(a) With respect to distributions of assets upon liquidation, dissolution or winding up of the Corporation, whether voluntarily or involuntarily, except subject to (b) below, the Non-Voting Preferred Stock shall rank (i) senior to all of the Common Stock to the extent (and only to the extent) set forth in (b) below; (ii) senior to any class or series of capital stock of the Corporation hereafter created specifically ranking by its terms junior to any shares of Non-Voting Preferred Stock ("Junior Securities"); (iii) on parity with any class or series of capital stock of the Corporation created (x) specifically ranking by its terms on parity with the Non-Voting Preferred Stock or (y) that does not by its terms rank junior or senior to the Non-Voting Preferred Stock ("Parity Securities") (other than Common Stock or any future class or series of common stock of the Corporation); and (iv) junior to any class or series of capital stock of the Corporation hereafter created specifically ranking by its terms senior to any shares of Non-Voting Preferred Stock ("Senior Securities").

(b) Subject to any superior liquidation rights of the holders of any Senior Securities of the Corporation and the rights of the Corporation's existing and future creditors, upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, each Holder shall be entitled to be paid out of the assets of the Corporation legally available for distribution to shareholders, (i) prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock and Junior Securities and *pari passu* with any distribution to the holders of Parity Securities (other than Common Stock or any future class or series of common stock of the Corporation), an amount equal to the sum of the Liquidation Preference for each share of Non-Voting Preferred Stock held by such Holder and (ii) after the payment of the amount set forth in (i) above and *pari passu* with any distribution to the holders of Parity Securities (including Common Stock or any future class or series of common stock of the Corporation), the amount the Holders would have received if, immediately prior to such voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the Non-Voting Preferred Stock had converted into Common Stock (based on the then effective Applicable Conversion Rate and without giving effect to any limitations on conversion set forth herein). Holders shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section VI and will have no right or claim to any of the Corporation's remaining assets.

(c) In the event the assets of the Corporation available for distribution to shareholders upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Non-Voting Preferred Stock contemplated by Section VI(b), the Holders and the holders of any Parity Securities shall share ratably in any distribution of assets of the Corporation in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled (it being understood that, for purposes of the foregoing, Parity Securities shall not include Common Stock).

(d) For purposes of this Section VI, the sale, conveyance, exchange or Transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or Person or the merger, consolidation or any other business combination of any other corporation or Person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

Section VII. Anti-Dilution Adjustments.

(a) In the event the Corporation shall at any time prior to an applicable Conversion Date issue Additional Shares of Common Stock, then the Applicable Conversion Rate shall be adjusted, concurrently with such issue, to a rate determined in accordance with the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

(b) For purposes of the foregoing formula, the following definitions shall apply:

(i) "CR0" shall mean the Applicable Conversion Rate in effect immediately before the close of business on the Record Date or effective date, as applicable, for such issuance of Additional Shares of Common Stock;

(ii) "CR1" shall mean the Applicable Conversion Rate in effect immediately after the close of business of the Record Date or effective date, as applicable, of such issuance of Additional Shares of Common Stock;

(iii) "OS0" shall mean the number of shares of Common Stock outstanding immediately prior to such issuance of Additional Shares of Common Stock; and

(iv) "OS1" shall mean the number of shares of Common Stock outstanding immediately following such issuance of Additional Shares of Common Stock.

(c) For the purposes of this Section VII, "Additional Shares of Common Stock" shall mean all shares of Common Stock issued by the Corporation after the Closing Date and prior to an applicable Conversion Date as a distribution, dividend, stock split, stock combination or other similar recapitalization with respect to the Common Stock (in each case excluding an issuance solely pursuant to a Reorganization Event).

(d) Notwithstanding the foregoing, if any distribution, dividend, stock split, stock combination or other similar recapitalization with respect to the Common Stock as described above is declared or announced, but not so paid or made, then the Applicable Conversion Rate in effect will be readjusted, effective as of the date the Board, or any officer acting pursuant to authority conferred by the Board, determines not to pay such distribution or dividend or to effect such stock split or stock combination or other similar recapitalization, to the Applicable Conversion Rate that would then be in effect had such dividend, distribution, stock split, stock combination or similar recapitalization not been declared or announced.

Section VIII. Reorganization Event.

(a) Upon the occurrence of a Reorganization Event prior to an applicable Conversion Date, each share of Non-Voting Preferred Stock outstanding immediately prior to such Reorganization Event shall, without the consent of Holders, automatically convert into the types and amounts of securities and cash that is or was receivable in such Reorganization Event by a holder of the number of shares of Common Stock into which such share of Non-Voting Preferred Stock was convertible immediately prior to such Reorganization Event in exchange for such shares of Common Stock (such securities and cash, the "Exchange Property"), provided that if (x) the Exchange Property consists of Voting Securities of another Person and (y) after giving effect to such automatic conversion, CITIC and its Affiliates would collectively hold more than 4.9% of any Class of Voting Securities of such Person that is impermissible for CITIC to hold under the BHCA, then, at the Corporation's election, the Corporation may redeem the portion of the Holder's Non-Voting Preferred Stock that would cause CITIC and its Affiliates to collectively hold more than 4.9% of any Class of Voting Securities of such Person that is impermissible for CITIC to hold under the BHCA at a cash price per share of Non-Voting Preferred Stock equal to the product of the Applicable Conversion Rate and the Fair Market Value of the Common Stock. The Holders shall not have any separate class vote on any Reorganization Event. A "Reorganization Event" shall mean:

(i) any consolidation, merger, conversion or other similar business combination of the Corporation with or into another Person (other than a transaction in which the holders of the voting securities of the surviving corporation in such transaction immediately following the transaction are substantially the same as the holders of Common Stock immediately prior to such transaction), in each case pursuant to which the Common Stock will be converted into cash, securities, or other property of the Corporation or another Person;

(ii) any sale, Transfer, lease, or conveyance to another Person of all or substantially all of the consolidated assets of the Corporation and its subsidiaries, taken as a whole, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property of the Corporation or such Person (other than a transaction in which the holders of the voting securities of such Person immediately following the transaction are substantially the same as the holders of Common Stock immediately prior to such transaction); or

(iii) any statutory exchange of the outstanding Common Stock for securities of another Person (other than in connection with a merger or acquisition but not in a transaction in which the holders of the voting securities of such Person immediately following the transaction are substantially the same as the holders of Common Stock immediately prior to such transaction).

(b) In the event that holders of the shares of the Common Stock have the opportunity to elect the form of consideration to be received in such Reorganization Event, the Corporation shall ensure that the Holders have the same opportunity to elect the form of consideration in accordance with the same procedures and pro ration mechanics that apply to the election to be made by the holders of the Common Stock. The amount of Exchange Property receivable upon conversion of any Non-Voting Preferred Stock shall be determined based upon the Applicable Conversion Rate in effect on the date on which such Reorganization Event is consummated.

(c) The Corporation (or any successor) shall, within 20 days of the occurrence of any Reorganization Event, provide written notice to the Holders of Non-Voting Preferred Stock of such occurrence of such event and of the type and amount of the cash, securities or other property that constitutes the Exchange Property.

Section IX. Common Stock Share Repurchase Program.

(a) Following March 11, 2024, if the Corporation repurchases its Common Stock, commences a new share repurchase program for Common Stock or modifies a share repurchase program in existence as of such date for Common Stock to increase the size of such share repurchase program (a "Share Repurchase"), CITIC shall be entitled, upon the terms and subject to the conditions hereof, to surrender Common Stock to the Corporation in exchange for the delivery to CITIC of a number of shares of such Non-Voting Preferred Stock that is equal to the product of (x) the applicable Exchanged Common Shares (as defined below) *multiplied* by (y) the Applicable Conversion Rate. Any exchange of Common Stock for Non-Voting Preferred Stock pursuant hereto is defined herein as an "Exchange." Subject to Section IX(b) and (c), CITIC may effect an Exchange within 10 Business Days following a determination by CITIC that a Share Repurchase has or would have the effect of increasing the calculation of the percentage of outstanding shares of Common Stock held by CITIC (together with its BHCA Affiliates) above 4.9% by submitting a written request (an "Exchange Notice") including the following information: (i) the number of shares of Common Stock held by CITIC (together with its BHCA Affiliates) as of the date of the Exchange Notice, (ii) the percentage of outstanding shares of Common Stock held by CITIC (together with its BHCA Affiliates) as described below, (iii) the proposed number of shares of Common Stock to be surrendered by CITIC in exchange for Non-Voting Preferred Stock in the Exchange (the "Exchanged Common Shares"), (iv) the calculation of the applicable Maximum Conversion (as defined below) and (v) the calculation of the percentage of outstanding shares of Common Stock held by CITIC (together with its BHCA Affiliates) following the settlement of the applicable Exchange. For purposes of calculating the percentage of outstanding shares of Common Stock held by CITIC (together with its BHCA Affiliates) referenced in clause (ii) of the immediately preceding sentence, CITIC shall use the Recent Outstanding Common Shares *minus* the Authorized Repurchases calculated as of the date immediately preceding the Exchange Notice.

(b) The number of Exchanged Common Shares in an Exchange in connection with a Share Repurchase shall not exceed the number of shares of Common Stock determined in accordance with the following formula and rounded to the nearest share (the "Maximum Conversion"):

$$M = \left(\frac{HS}{OS'} - 0.049\right) \times OS'$$

For purposes of the foregoing formula, the following definitions shall apply:

(i) "M" shall mean the Maximum Conversion;

(ii) "HS" shall mean the number of shares of Common Stock held by CITIC (together with its BHCA Affiliates) as of the date of the Exchange Notice; and

(iii) "OS" shall mean the Recent Outstanding Common Shares *minus* the Authorized Repurchases as of the date immediately preceding the Exchange Notice.

(c) Notwithstanding anything to the contrary herein, CITIC shall not be entitled to Exchange into a number of shares of Non-Voting Preferred Stock that would exceed 5,000,000 shares in the aggregate.

(d) The Corporation shall effect the Exchange on the second Business Day following delivery of a valid Exchange Notice.

Section X. Reservation of Stock.

(a) The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock or shares acquired or created by the Corporation, solely for issuance upon the conversion of shares of Non-Voting Preferred Stock as provided in this Certificate of Designation, free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Non-Voting Preferred Stock then outstanding.

(b) The Corporation hereby covenants and agrees that, for so long as shares of the Common Stock are listed on the NYSE or any other national securities exchange or automated quotation system, the Corporation will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all the Common Stock issuable upon conversion of the Non-Voting Preferred Stock; provided, however, that if the rules of such exchange or automated quotation system permit the Corporation to defer the listing of such Common Stock until the first conversion of Non-Voting Preferred Stock into Common Stock in accordance with the provisions hereof, the Corporation covenants to list such Common Stock issuable upon conversion of the Non-Voting Preferred Stock in accordance with the requirements of such exchange or automated quotation system at such time.

Section XI. Exclusion of Other Rights.

Except as may otherwise be required by Law, the shares of Non-Voting Preferred Stock shall not have any voting powers, preferences or relative, participating, optional or other special rights, other than those specifically set forth herein (as this Certificate of Designation may be amended from time to time). The shares of Non-Voting Preferred Stock shall have no preemptive or subscription rights.

Section XII. Severability of Provisions.

If any voting powers, preferences or relative, participating, optional or other special rights of the Non-Voting Preferred Stock and qualifications, limitations and restrictions thereof set forth in this Certificate of Designation (as this Certificate of Designation may be amended from time to time) are invalid, unlawful or incapable of being enforced by reason of any rule of Law, all other voting powers, preferences and relative, participating, optional and other special rights of Non-Voting Preferred Stock and qualifications, limitations and restrictions thereof set forth in this Certificate of Designation (as so amended) which can be given effect without the invalid, unlawful or unenforceable voting powers, preferences or relative, participating, optional or other special rights of Non-Voting Preferred Stock and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no voting powers, preferences or relative, participating, optional or other special rights of Non-Voting Preferred Stock or qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such voting powers, preferences or relative, participating, optional or other special rights of Non-Voting Preferred Stock or qualifications, limitations and restrictions thereof unless so expressed herein.

Section XIII. No Reissuance of Non-Voting Preferred Stock.

Any converted or redeemed shares of Non-Voting Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for shareholder action) as may be necessary to reduce the authorized number of shares of Non-Voting Preferred Stock accordingly and restore such shares to the status of authorized but unissued shares of Preferred Stock.

Section XIV. Additional Authorized Shares.

Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designation to the contrary, the Board or any authorized committee of the Board, without the vote of the Holders, may increase or decrease the number of authorized shares of Non-Voting Preferred Stock or other stock ranking junior or senior to, or on parity with, the Non-Voting Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

Section XV. Determinations.

The Corporation shall be solely responsible for making all calculations called for hereunder. Absent fraud or manifest error, such calculations shall be final and binding on all Holders. The Corporation shall have the power to resolve any ambiguity and its action in so doing, as evidenced by a resolution of the Board, shall be final and conclusive unless clearly inconsistent with the intent hereof. Amounts resulting from any calculation will be rounded, if necessary, to the nearest one ten-thousandth, with five one-hundred thousandths being rounded upwards.

Section XVI. Notices.

All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Certificate of Designation shall be in writing and shall be deemed to have been given or made when (a) delivered personally to the recipient, (b) delivered by means of electronic mail (provided that no "error message" or other notification of non-delivery is generated) or (c) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid). Such notices, demands and other communications shall be sent to (i) if to the Corporation, 201 Isabella Street, Suite 500, Pittsburgh, Pennsylvania 15212-5858, Attention: Executive Vice President and General Counsel, (ii) if to any Holder, to such Holder at the address listed in the stock record books of the Corporation, or, in each case, to such other address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party.

Section XVII. Taxes.

The Corporation and each Holder shall bear their own expenses in connection with any conversion contemplated by Section III.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be executed by a duly authorized officer as of the 31st day of July, 2024.

ALCOA CORPORATION

By: /s/ William F. Oplinger
Name: William F. Oplinger
Title: President and Chief Executive Officer

[*Signature Page to the Certificate of Designation*]

Exhibit 3.2

AMENDED AND RESTATED BYLAWS
OF
ALCOA CORPORATION

Incorporated under the Laws of the State of Delaware

These Amended and Restated Bylaws (as amended, the "Bylaws") of ALCOA CORPORATION, a Delaware corporation, are effective as of July 31, 2024 and hereby amend and restate the previous bylaws of ALCOA CORPORATION, which are hereby deleted in their entirety and replaced with the following:

ARTICLE I
OFFICES AND RECORDS

Section 1.1 Delaware Office. The registered office of ALCOA CORPORATION (the "Corporation") in the State of Delaware shall be located in the City of Wilmington, County of New Castle, and the name and address of its registered agent is The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

Section 1.2 Other Offices. The Corporation may have such other offices, either inside or outside the State of Delaware, as the Board of Directors of the Corporation (the "Board of Directors") may from time to time designate or as the business of the Corporation may require.

Section 1.3 Books and Records. The books and records of the Corporation may be kept inside or outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

ARTICLE II
STOCKHOLDERS

Section 2.1 Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held at such date and time and in such manner as may be fixed by resolution of the Board of Directors.

Section 2.2 Special Meeting.

(A) Subject to the rights of the holders of any series of stock having a preference over the Common Stock of the Corporation as to dividends, voting or upon liquidation (the "Preferred Stock") with respect to such series of Preferred Stock, special meetings of the stockholders may be called only by or at the direction of (1) the Chairman of the Board of Directors or the Chief Executive Officer, or (2) the Board of Directors pursuant to a resolution adopted by a majority of the total number of directors which the Corporation would have if there were no vacancies (the "Whole Board"), or (3) the Secretary of the Corporation at the written request of a stockholder of record who owns and has owned, or is acting on behalf of one or more beneficial owners who own and have owned, continuously for at least one year as of the record date fixed in accordance with these Bylaws to determine who may deliver a written request to call such special meeting, capital stock representing at least twenty-five percent (25%) of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (the "Special Meeting Request

Required Shares"), and who continue to own the Special Meeting Request Required Shares at all times between such record date and the date of the applicable meeting of stockholders. For purposes of this Section 2.2, a record or beneficial owner shall be deemed to "own" shares of capital stock of the Corporation that such record or beneficial owner would be deemed to own in accordance with clause (3) of the first paragraph of Section 9.1 (without giving effect to any reference to Constituent Holder or any stockholder fund comprising a Qualifying Fund contained therein).

(B) Any record stockholder (whether acting for him, her or itself, or at the direction of a beneficial owner) may, by written notice to the Secretary, demand that the Board of Directors fix a record date to determine the record stockholders who are entitled to deliver a written request to call a special meeting (such record date, the "Ownership Record Date"). A written demand to fix an Ownership Record Date shall include all of the information that must be included in a written request to call a special meeting, as set forth in paragraph (D) of this Section 2.2. The Board of Directors may fix the Ownership Record Date within ten (10) days of the Secretary's receipt of a valid demand to fix the Ownership Record Date. The Ownership Record Date shall not precede, and shall not be more than ten (10) days after, the date upon which the resolution fixing the Ownership Record Date is adopted by the Board of Directors. If an Ownership Record Date is not fixed by the Board of Directors within the period set forth above, the Ownership Record Date shall be the date that the first written request is received by the Secretary pursuant to this paragraph (B).

(C) A beneficial owner who wishes to deliver a written request to call a special meeting must cause the nominee or other person who serves as the record stockholder of such beneficial owner's stock to sign the written request to call a special meeting. If a record stockholder is the nominee for more than one beneficial owner of stock, the record stockholder may deliver a written request to call a special meeting solely with respect to the capital stock of the Corporation beneficially owned by the beneficial owner who is directing the record stockholder to sign such written request to call a special meeting.

(D) Each written request to call a special meeting shall include the following and shall be delivered to the Secretary of the Corporation: (i) the signature of the record stockholder submitting such request and the date such request was signed, (ii) the complete text of each business proposal desired to be submitted for stockholder approval at the special meeting, and (iii) as to the beneficial owner, if any, directing such record stockholder to sign the written request to call a special meeting and as to such record stockholder (unless such record stockholder is acting solely as a nominee for a beneficial owner) (each such beneficial owner and each record stockholder who is not acting solely as a nominee, a "Disclosing Party"):

(1) all of the information required to be disclosed pursuant to Section 2.9(C)(1) of these Bylaws by each Disclosing Party, (i) not later than ten (10) days after the record date for determining the record stockholders entitled to notice of the special meeting (such record date, the "Meeting Record Date"), to disclose the foregoing information as of the Meeting Record Date and (ii) not later than the 5th day before the special meeting, to disclose the foregoing information as of the date that is ten (10) days prior to the special meeting or any adjournment or postponement thereof;

(2) with respect to each business proposal to be submitted for stockholder approval at the special meeting, a statement whether or not any Disclosing Party will deliver a proxy statement and form of proxy to holders of at least the percentage of voting power of all of the outstanding shares of capital stock of the Corporation generally entitled to vote in the election of directors ("Voting Stock") required under applicable law to carry such proposal (such statement, a "Solicitation Statement"); and

(3) any additional information reasonably requested by the Board of Directors to verify the Voting Stock ownership position of such Disclosing Party.

Each time the Disclosing Party's Voting Stock ownership position decreases following the delivery of the foregoing information to the Secretary, such Disclosing Party shall notify the Corporation of his, her or its decreased Voting Stock ownership position, together with any information reasonably requested by the Board of Directors to verify such position, within ten (10) days of such decrease or as of the 5th day before the special meeting, whichever is earlier.

(E) The Secretary shall not accept, and shall consider ineffective, a written request to call a special meeting pursuant to clause (A)(3) of this Section 2.2:

(1) that does not comply with the provisions of this Section 2.2;

(2) that relates to an item of business that (i) is not a proper subject for stockholder action under the Corporation's Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation"), these Bylaws or applicable law; or (ii) is expressly reserved for action by the Board of Directors under the Certificate of Incorporation, these Bylaws or applicable law;

(3) if such written request to call a special meeting is delivered between the time beginning on the 61st day after the earliest date of signature on a written request to call a special meeting, that has been delivered to the Secretary, relating to an identical or substantially similar item (as determined by the Board of Directors, a "Similar Item"), other than the election or removal of directors, and ending on the one (1)-year anniversary of such earliest date;

(4) if a Similar Item will be submitted for stockholder approval at any stockholder meeting to be held on or before the 120th day after the Secretary receives such written request to call a special meeting (and, for purposes of this clause (4), the election of directors shall be deemed to be a Similar Item with respect to all items of business involving the election or removal of directors, changing the size of the Board of Directors and the filling of vacancies or newly created directorships resulting from any increase in the authorized number of directors); or

(5) if a Similar Item has been presented at any meeting of stockholders held within 180 days prior to receipt by the Secretary of such written request to call a special meeting (and, for purposes of this clause (5), the election of directors shall be deemed to be a Similar Item with respect to all items of business involving the election or removal of directors, changing the size of the Board of Directors and the filling of vacancies or newly created directorships resulting from any increase in the authorized number of directors).

(F) Revocations:

(1) A record stockholder may revoke a request to call a special meeting at any time before the special meeting by sending written notice of such revocation to the Secretary of the Corporation.

(2) All written requests for a special meeting shall be deemed revoked:

(a) upon the first date that, after giving effect to revocation(s) and notices of ownership position decreases (pursuant to Section 2.2(D)(3) and the last sentence of Section 2.2(D), respectively), the aggregate Voting Stock ownership position of all the Disclosing Parties who are listed on the unrevoked written requests to call a special meeting with respect to a Similar Item decreases to a number of shares of Voting Stock less than the Special Meeting Request Required Shares;

(b) if any Disclosing Party who has provided a Solicitation Statement with respect to any business proposal to be submitted for stockholder approval at such special meeting does not act in accordance with the representations set forth therein; or

(c) if any Disclosing Party does not provide the supplemental information required by Section 2.2(D)(3) or by the final sentence of Section 2.2(D), in accordance with such provisions.

(3) If a deemed revocation of all written requests to call a special meeting has occurred after the special meeting has been called by the Secretary, the Board of Directors shall have the discretion to determine whether or not to proceed with the special meeting.

(G) The Board of Directors may submit its own proposal or proposals for consideration at a special meeting called at the request of one or more stockholders. The Meeting Record Date for, and the place, date and time of, any special meeting shall be fixed by the Board of Directors; provided, that the date of any such special meeting shall not be more than 120 days after the date on which valid special meeting request(s) from holders of the Special Meeting Request Required Shares are delivered to the Secretary of the Corporation.

Section 2.3 Place of Meeting. The Board of Directors, the Chairman of the Board of Directors, or the Chief Executive Officer, as the case may be, may designate the place of meeting for any annual or special meeting of the stockholders or may designate that the meeting be held by means of remote communications. If no designation is so made, the place of meeting, if any, shall be the principal office of the Corporation.

Section 2.4 Notice of Meeting. Written or printed notice, stating the place, if any, date and hour of the meeting, 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 meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered by the Corporation not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally, by electronic transmission in the manner provided in Section 232 of

the General Corporation Law of the State of Delaware (as amended, the "DGCL") (except to the extent prohibited by Section 232(e) of the DGCL) or by mail, to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at such stockholder's address as it appears on the records of the Corporation. If notice is given by electronic transmission, such notice shall be deemed to be given at the times provided in the DGCL. Such further notice shall be given as may be required by applicable law. Meetings may be held without notice if all stockholders entitled to vote are present, or if notice is waived by those not present in accordance with Section 7.4 of these Bylaws. Any previously scheduled meeting of the stockholders may be postponed, and unless the Certificate of Incorporation otherwise provides, any special meeting of the stockholders may be cancelled, by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such meeting of stockholders.

Section 2.5 Quorum and Adjournment. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the Voting Stock, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The Chairman of the Board of Directors or the Chief Executive Officer may adjourn the meeting from time to time, whether or not there is a quorum. No notice of the time, date and place, if any, of adjourned meetings need be given except as required by applicable law. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.6 Organization. Meetings of stockholders shall be presided over by such person as the Board of Directors may designate as chairman of the meeting, or in the absence of such a person, the Chairman of the Board of Directors or the Chief Executive Officer, or if none or in their absence or inability to act, the President, or if none or in the President's absence or inability to act, a Vice President. The Secretary, or in the Secretary's absence, an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present, the presiding officer of the meeting shall appoint any person present to act as secretary of the meeting. The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in the meeting to stockholders of record of the Corporation or their qualified representatives, their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the meeting, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting and matters which are to be voted on by ballot.

Section 2.7 Proxies. At all meetings of stockholders, a stockholder may vote by proxy executed in writing (or in such manner prescribed by the DGCL) by the stockholder, or by such

stockholder's duly authorized attorney in fact. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 2.8 Order of Business.

(A) Annual Meetings of Stockholders. At any annual meeting of the stockholders, only such nominations of individuals for election to the Board of Directors shall be made, and only such other business shall be conducted or considered, as shall have been properly brought before the meeting in accordance with these Bylaws, the Certificate of Incorporation and applicable law. For nominations to be properly made at an annual meeting, and proposals of other business to be properly brought before an annual meeting, nominations and proposals of other business must be: (a) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (b) otherwise properly made at the annual meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof), or (c) otherwise properly requested to be brought before the annual meeting by a stockholder of the Corporation Present in Person (as defined below) in accordance with these Bylaws. In addition, for proposals of business, including, but not limited to, those relating to proposed nominations of directors, to be properly brought before an annual meeting for action by the Corporation's stockholders, they must relate to an item of business that (i) is a proper subject for stockholder action under the Certificate of Incorporation, these Bylaws or applicable law; and (ii) is not expressly reserved for action by the Board of Directors under the Certificate of Incorporation, these Bylaws or applicable law. For nominations of individuals for election to the Board of Directors or proposals of other business to be properly requested by a stockholder to be made at an annual meeting, a stockholder must (i) be a stockholder of record at the time of delivering the advance notice to the Corporation contemplated by Section 2.9 of these Bylaws, on the record date for the determination of stockholders entitled to notice of and to vote at the annual meeting at the time of giving of notice of such annual meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof) and at the time of the annual meeting, (ii) be entitled to vote at such annual meeting, (iii) nominate (in the case of a nomination) a number of candidates that does not exceed the number of directors to be elected at such meeting and (iv) comply with the procedures set forth in these Bylaws as to such proposed business or nominations. Subject to Article IX of these Bylaws, this Section 2.8(A) shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and included in the Corporation's notice of meeting) before an annual meeting of stockholders. For purposes of these Bylaws, "Present in Person" shall mean that the stockholder proposing that the business be brought before a meeting, or, if the proposing stockholder is not an individual, a qualified representative of such proposing stockholder, is in attendance at such meeting (unless such meeting is held by means of the Internet or other electronic technology in which case the proposing stockholder or its qualified representative shall be present at such meeting by means of the Internet or other electronic technology). A "qualified representative" of such proposing stockholder shall be, if such proposing stockholder is (i) a general or limited partnership, any general partner or person who functions as a general partner of the general or limited partnership or who controls the general or limited partnership, (ii) a corporation or a limited liability company, any officer or person who functions as an officer of the corporation or limited liability company or any officer, director, general partner or person who functions as an officer, director or general

partner of any entity ultimately in control of the corporation or limited liability company, or (iii) a trust, any trustee of such trust.

(B) Special Meetings of Stockholders. At any special meeting of the stockholders, only such business shall be conducted or considered as shall have been properly brought before the special meeting. To be properly brought before a special meeting, proposals of business must be (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (ii) otherwise properly brought before the special meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof), (iii) with respect to the election of directors, provided that the Board of Directors has called a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, by any stockholder of the Company Present in Person who meets the requirements set forth below in this Section 2.8(B) and who complies in all respects with the advance notice and other requirements set forth elsewhere in these Bylaws relating to bringing such nominations before a special meeting, including, but not limited to, this Section 2.8(B) and Section 2.9(B) hereof, or (iv) specified in the Corporation's notice of meeting (or any supplement thereto) given by the Corporation pursuant to a valid stockholder request in accordance with Section 2.2 of these Bylaws, it being understood that business transacted at such a special meeting shall be limited to the matters stated in such valid stockholder request; provided, however, that nothing herein shall prohibit the Board of Directors (or any duly authorized committee thereof) from submitting additional matters to stockholders at any such special meeting. In addition, for proposals of business to be properly brought before a special meeting, they must (i) relate to an item of business that is a proper subject for stockholder action under the Certificate of Incorporation, these Bylaws or applicable law; and (ii) not be expressly reserved for action by the Board of Directors under the Certificate of Incorporation, these Bylaws or applicable law.

Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders if they are brought before the meeting (a) pursuant to the Corporation's notice of meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof), or (b) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who (1) is a stockholder of record at the time of giving of notice of such special meeting and at the time of the special meeting, (2) is entitled to vote at the special meeting, and (3) complies with the advance notice and other requirements set forth in these Bylaws relating to bringing such nominations before a special meeting, including, but not limited to, this Section 2.8(B) and Section 2.9(B) hereof. Subject to Article IX of these Bylaws, this Section 2.8(B) shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the Corporation's notice of meeting) before a special meeting of stockholders.

(C) General. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the chairman of any annual or special meeting shall have the power to determine, based on the facts and circumstances and in consultation with counsel (who may be the Corporation's internal counsel), 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 these Bylaws and, if any proposed nomination or other business is not in compliance with these Bylaws, to declare that no action shall be taken on such nomination or other proposal and such nomination

or other proposal shall be disregarded. In addition, a nomination or other business proposed to be brought by a stockholder may not be brought before a meeting if such stockholder takes action contrary to the representations made in the stockholder notice applicable to such nomination or other business or if (i) when submitted to the Corporation prior to the deadline for submitting a stockholder notice, the stockholder notice applicable to such nomination or other business contained an untrue statement of a fact or omitted to state a fact necessary to make the statements therein not misleading, or (ii) after being submitted to the Corporation, the stockholder notice applicable to such nomination or other business was not updated in accordance with these Bylaws to cause the information provided in the stockholder notice to be true, correct, and complete in all respects.

Section 2.9 Advance Notice of Stockholder Business and Nominations.

(A) Annual Meeting of Stockholders. Without qualification or limitation, subject to Section 2.9(C)(10) of these Bylaws, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 2.8(A) of these Bylaws, the stockholder must have given timely notice thereof (including, in the case of nominations, the completed and signed questionnaire, representation, and agreement required by Section 2.10 of these Bylaws), and timely updates and supplements thereof, in each case in proper form, in writing to the Secretary, and such other business must otherwise be a proper matter for stockholder action pursuant to the Certificate of Incorporation, these Bylaws and applicable law.

To be timely, a stockholder's notice 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 and not later than the close of business on the 90th 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 thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or, if the first public announcement of the date of such annual meeting is less than one hundred (100) days prior to the date of such annual meeting, the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

Notwithstanding anything in the immediately preceding paragraph to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased by the Board of Directors, 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 at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.9(A) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, and only with respect to a stockholder who had, prior to such increase in the size of the Board of Directors, previously submitted, on a timely basis and in proper written form, a stockholder notice, if it shall be delivered to the Secretary 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.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof. For the avoidance of doubt, the obligation to update and supplement as set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to, or cure, any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or under any other provision of the Bylaws or enable or be deemed to permit a stockholder who has previously submitted notice hereunder or under any other provision of the Bylaws to amend or update any proposal or to submit any new or substitute proposal, including by changing or adding nominees, matters, business, and/or resolutions proposed to be brought before a meeting of the stockholders.

(B) Special Meetings of Stockholders. Subject to Section 2.9(C)(10) of these Bylaws, 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 meeting the requirements set forth in Section 2.8(B) hereof may nominate an individual or individuals (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, provided that the stockholder gives timely notice of such nomination (including the notice of nomination contemplated by Section 2.9(C) of these Bylaws and the completed and signed questionnaire, representation and agreement required by Section 2.10 of these Bylaws), and timely updates and supplements thereof in each case in proper form, in writing, to the Secretary. To be timely, a stockholder's notice pursuant to the preceding sentence shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to the date of such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than one hundred (100) days prior to the date of such special meeting, the 10th day following the day on which public announcement is first made of the date of the special meeting by the Corporation. In no event shall any adjournment or postponement of a special meeting of stockholders, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above. In addition, to be considered timely, a stockholder's notice pursuant to the first sentence of this paragraph shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting, any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof.

(C) Disclosure Requirements.

(1) To be in proper form, a stockholder's notice (whether given pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10) to the Secretary must include the following, as applicable:

(a) As to the stockholder giving the notice and the beneficial owner(s), if any, on whose behalf the nomination or proposal, as applicable, is made, a stockholder's notice must set forth: (i) the name and address of such stockholder, as they appear on the Corporation's books, of such beneficial owner(s), if any, and of their respective affiliates or associates, (ii) (A) the class or series and number of shares of the Corporation which are, directly or indirectly, owned beneficially and of record by such stockholder, such beneficial owner(s) and their respective affiliates or associates; (B) any "derivative security" (as such term is defined in Rule 16a-1(c) under the Exchange Act) that constitutes a "call equivalent position" (as such term is defined in Rule 16a-1(b) under the Exchange Act) and that is, directly or indirectly, held or maintained by such stockholder with respect to any shares of any class or series of shares of the Corporation, or any contract, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class or series of shares of the Corporation, including due to the fact that the value of such contract, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class or series of shares of the Corporation, whether or not such instrument, contract or right shall be subject to settlement in the underlying class or series of shares of the Corporation, through the delivery of cash or other property, or otherwise, and without regard to whether the stockholder of record, the beneficial owner(s), if any, or any affiliates or associates, may have entered into transactions that hedge or mitigate the economic effect of such instrument, contract or right, or any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation directly or indirectly owned beneficially by such stockholder, the beneficial owner(s), if any, or any affiliates or associates (any of the foregoing, a "Derivative Instrument"), provided, however, that for the purpose of defining the term "Derivative Instrument" the term "derivative security" shall also include any security or instrument that would not otherwise constitute a "derivative security" (as such term is defined in Rule 16a-1(c) under the Exchange Act) as a result of any feature that would make any conversion, exercise or similar right or privilege of such security or instrument becoming determinable only at some future date or upon the happening of a future occurrence, in which case the determination of the amount of securities into which such security or instrument would be convertible or exercisable shall be made assuming that such security or instrument is immediately convertible or exercisable at the time of such determination, or otherwise include rights with an exercise or conversion privilege that is not fixed; and, provided, further, that any stockholder satisfying the requirements of Rule 13d-1(b)(1) under the Exchange Act (other than a stockholder that so satisfies Rule 13d-1(b)(1) under the Exchange Act solely by reason of Rule 13d-1(b)(1)(ii)(E)) shall not be required to disclose a Derivative Instrument held by

such stockholder as a hedge with respect to a bona fide derivatives trade or position of such stockholder arising in the ordinary course of such stockholder's business as a derivatives dealer; (C) any proxy or contract pursuant to which such stockholder, such beneficial owner(s) and their respective affiliates or associates have any right to vote any class or series of shares of the Corporation; (D) any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement (including any short position or any borrowing or lending of shares of stock), involving such stockholder, such beneficial owner(s) and their respective affiliates or associates, directly or indirectly, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any class or series of the shares of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such stockholder, such beneficial owner(s) and their respective affiliates or associates with respect to any class or series of the shares of the Corporation, or which provides, directly or indirectly, the opportunity to profit or share in any profit derived from any decrease in the price or value of any class or series of the shares of the Corporation, including without limitation any "put equivalent position" (as such term is defined in Rule 16a-1(h) under the Exchange Act) related to any shares of any class or series of shares of the Corporation (any of the foregoing, a "Short Interest"); (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder, such beneficial owner(s) and their respective affiliates or associates that are separated or separable from the underlying shares of the Corporation; and (F) any proportionate interest in shares of the Corporation, Derivative Instruments, or Short Interests held, directly or indirectly, by a general or limited partnership in which such stockholder, such beneficial owner(s) and their respective affiliates or associates is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership, (iii) any direct or indirect interest of such stockholder, such beneficial owner(s) and their respective affiliates or associates in any contract or agreement with the Corporation or any affiliate of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (iv) any material pending or threatened legal proceeding in which such stockholder, such beneficial owner(s) and their respective affiliates or associates is a party, material participant or has an interest (other than an interest that is substantially the same as all stockholders) involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (v) any other material relationship or contract between such stockholder, such beneficial owner(s) and their respective affiliates or associates, on the one hand, and the Corporation or any affiliate of the Corporation on the other hand, (vi) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment pursuant to Rule 13d-2(a) if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such stockholder, such beneficial owner(s) and their respective affiliates or associates, if any, (vii) any other information relating to such stockholder, such beneficial owner(s) and their respective affiliates or associates, if any, or the proposal, as applicable, that would be required to be disclosed in a proxy

statement and form of proxy or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (viii) with respect to a director nomination, a representation as to whether such stockholder, such beneficial owner(s) or their respective affiliates or associates intend, or are part of a group that intends, to solicit proxies in support of director nominees other than the Corporation's nominees in accordance with Rule 14a-19 promulgated under the Exchange Act, and, in the event that such a person so intends, or is part of a group that so intends, a written agreement (in the form provided by the Secretary of the Corporation upon written request), on behalf of such person and any group of which it is a member, that such person acknowledges and agrees (A) that it, or the group of which it is a part, intends to solicit the holders of shares representing at least 67% of the voting power of the Corporation's shares entitled to vote on the election of directors in support of such director nominees other than the Corporation's nominees in accordance with Rule 14a-19(a)(3) promulgated under the Exchange Act, (B) that it shall notify the Secretary of the Corporation promptly if any change occurs with respect to the intent of such person or the group of which such person is a part to solicit the holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors in support of director nominees other than the Corporation's nominees or with respect to the names of such person's nominees, (C) that if such person or the group of which it is a part (i) provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act and (ii) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act, then the Corporation shall disregard any proxies or votes solicited for such person's nominees, and (D) that, upon request by the Corporation, if such person or the group of which it is a part provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act, such person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable documentary evidence (as determined by the Corporation or one of its representatives, acting in good faith) that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act, and (ix) a representation as to whether or not such stockholder intends to or will submit any other proposal for consideration at the meeting;

(b) If the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the meeting, a stockholder's notice must, in addition to the matters set forth in paragraph (a) above, also set forth: (i) a reasonably detailed description of the business proposed to be brought before the meeting, the reasons for conducting such business at the meeting, the reasons why such stockholder, such beneficial owner(s) and each of their respective affiliates or associates, believe that the taking of the action(s) proposed to be taken would be in the best interests of the Corporation and its stockholders and any material interest of such stockholder, such beneficial owner(s) and each of their respective affiliates or associates, including any anticipated benefit to the stockholder, such beneficial owner(s) or each of their respective affiliates or associates, in such business, (ii) the complete text of the proposal or

business (including the complete text of any resolutions proposed for consideration and, in the event that such proposal or business includes a proposal to amend the Bylaws of the Corporation, the complete text of the proposed amendment), (iii) a reasonably detailed description of all agreements, arrangements and understandings (written or oral) between such stockholder, such beneficial owner(s) and any of their respective affiliates or associates, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder, and (iv) the information described in Section 2.9(C)(1)(a)(vii);

(c) As to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraph (a) above, also set forth: (i) all information relating to such individual that would be required to be disclosed pursuant to paragraph (a) above if such individual was the stockholder giving the advance notice of nomination to the Corporation, (ii) all information relating to such individual described in Section 2.9(C)(1)(a)(vii) (including such individual's written consent to being named in the proxy materials as a nominee and to serving as a director of the Corporation if elected), and (iii) a reasonably detailed description of all direct and indirect compensation, reimbursement, indemnification, benefits and other agreements, arrangements and understandings (written or oral and formal or informal and whether monetary or non-monetary) during the past three (3) years, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates (each, a "party" for purposes of this sentence), on the one hand, and each proposed nominee, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Item 404 or any successor provision promulgated under Regulation S-K if a party were the "registrant" for purposes of such Item and the nominee were a director or executive officer of such registrant. For the avoidance of doubt, a stockholder shall not be entitled to make additional or substitute nominations following the expiration of the time periods set forth in this Section 2.9; and

(d) With respect to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraphs (a) and (c) above, also include a completed and signed questionnaire, representation and agreement required by Section 2.10 of these Bylaws. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee. Notwithstanding anything to the contrary, only persons who are nominated in accordance with the procedures set forth in these Bylaws, including without limitation Section 2.8, this Section 2.9 and Section 2.10 hereof, shall be eligible for election as directors.

(2) For purposes of these Bylaws, "public announcement" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) Upon written request by the Secretary of the Corporation, the Board of Directors or any duly authorized committee thereof, any stockholder submitting a stockholder notice (whether given pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10) proposing a nomination or other business for consideration at a meeting shall provide, within five (5) business days of delivery of such request (or such other period as may be specified in such request), (i) written verification, satisfactory in the reasonable discretion of the Board of Directors, any duly authorized committee thereof or any duly authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder in the stockholder notice delivered pursuant to the requirements of the Bylaws (including, if requested, written confirmation by such stockholder that it continues to intend to bring the nomination or other business proposed in the stockholder notice before the meeting) and (ii) such other information reasonably required by the Secretary of the Corporation, the Board of Directors or any duly authorized committee thereof, acting in good faith, to determine compliance with these Bylaws by such stockholder or candidate whom such stockholder proposes to nominate for election as a director or the accuracy and completeness of any notice or solicitation given or made on behalf of such stockholder or candidate whom such stockholder proposes to nominate for election as a director. If a stockholder fails to provide such written verification or other information within such period, the information as to which written verification or other information was requested may be deemed not to have been provided in accordance with the requirements of these Bylaws.

(4) Upon written request by the Secretary of the Corporation, the Board of Directors or any duly authorized committee thereof, any stockholder submitting a stockholder notice (whether given pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10) proposing a nomination or other business for consideration at a meeting shall provide, within five (5) business days of delivery of such request (or such other period as may be specified in such request), a written supplement, satisfactory in the reasonable discretion of the Board of Directors, any duly authorized committee thereof or any duly authorized officer of the Corporation, to update the information contained in any previously submitted stockholder notice and provide the disclosures required by Section 2.9(C)(1) such that they are current and true, correct and complete as of the date that such supplement is submitted to the Secretary. If a stockholder fails to provide such written supplement within such period, the information as to which a written supplement was requested may be deemed not to have been provided in accordance with the requirements of these Bylaws.

(5) For a stockholder notice (whether given pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10) to comply with the requirements of this Section 2.9, each of the requirements of this Section 2.9 shall be directly and expressly responded to and a stockholder notice must clearly indicate and expressly reference which provisions of this Section 2.9 the information disclosed is intended to be responsive to. Information disclosed in one section of the stockholder notice in response to one provision of this

Section 2.9 shall not be deemed responsive to any other provision of this Section 2.9 unless it is expressly cross-referenced to such other provision and it is clearly apparent how the information included in one section of the stockholder notice is directly and expressly responsive to the information required to be included in another section of the stockholder notice pursuant to this Section 2.9. For the avoidance of doubt, statements purporting to provide global cross-references that purport to provide that all information provided shall be deemed to be responsive to all requirements of this Section 2.9 shall be disregarded and shall not satisfy the requirements of this Section 2.9.

(6) For a stockholder notice (whether given pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10) to comply with the requirements of this Section 2.9, it must set forth in writing directly within the body of the stockholder notice (as opposed to being incorporated by reference from any other document or writing not prepared solely in response to the requirements of these Bylaws) all the information required to be included therein as set forth in this Section 2.9 and each of the requirements of this Section 2.9 shall be directly responded to in a manner that makes it clearly apparent how the information provided is specifically responsive to any requirements of this Section 2.9. For the avoidance of doubt, a stockholder notice shall not be deemed to be in compliance with this Section 2.9 if it attempts to include the required information by incorporating by reference into the body of the stockholder notice any other document, writing or part thereof, including, but not limited to, any documents publicly filed with the Securities and Exchange Commission not prepared solely in response to the requirements of these Bylaws. For the further avoidance of doubt, the body of the stockholder notice shall not include any documents that are not prepared solely in response to the requirements of these Bylaws.

(7) A stockholder submitting a stockholder notice (whether given pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10), by its delivery to the Corporation, represents and warrants that all information contained therein, as of the deadline for submitting the stockholder notice, is true, accurate and complete in all respects, contains no false or misleading statements and such stockholder acknowledges that it intends for the Corporation and the Board of Directors to rely on such information as (i) being true, accurate and complete in all respects and (ii) not containing any false or misleading statements. If the information submitted pursuant to this Section 2.9 by any stockholder proposing a nomination or other business for consideration at a meeting shall not be true, correct, and complete in all respects prior to the deadline for submitting the stockholder notice, such information may be deemed not to have been provided in accordance with this Section 2.9.

(8) Notwithstanding any notice of the meeting sent to stockholders on behalf of the Corporation, a stockholder must separately comply with this Section 2.9 to propose a nomination or other business at any meeting and is still required to deliver its own separate and timely stockholder notice to the Secretary of the Corporation prior to the deadline for submitting a stockholder notice that complies in all respects with the requirements of this Section 2.9. For the avoidance of doubt, if the stockholder's proposed business is the same or relates to business brought by the Corporation and included in the Corporation's meeting notice or any supplement thereto, the stockholder is nevertheless still required to comply

with this Section 2.9 and deliver, prior to the deadline for submitting the stockholder notice, its own separate and timely stockholder notice to the Secretary of the Corporation that complies in all respects with the requirements of this Section 2.9.

(9) Notwithstanding the provisions of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act, the rules and regulations thereunder (including Rule 14a-19) and any other requirements of the Securities and Exchange Commission or other applicable law in connection with the matters set forth in, or contemplated by, this Section 2.9, any solicitation of proxies contemplated by any notices delivered pursuant to Section 2.2, Section 2.8, this Section 2.9 or Section 2.10 and any filings required to be made with the Securities and Exchange Commission in connection therewith; provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the separate and additional requirements set forth in these Bylaws with respect to nominations or proposals as to any other business to be considered.

(10) Nothing in this Section 2.9 or elsewhere in these Bylaws shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock if and to the extent provided for under any applicable law, the Certificate of Incorporation or these Bylaws. Nothing in this Section 2.9, separate and independent of Rule 14a-8 under the Exchange Act or Article IX hereof, shall be construed to permit any stockholder, or give any stockholder the right, to include or have disseminated or described in the Corporation's proxy statement any nomination of director or directors or any other business proposal.

(D) Other Requirements.

(1) Upon written request by the Secretary of the Corporation, the Board of Directors or any duly authorized committee thereof, each candidate whom a stockholder proposes to nominate for election as a director shall, and such stockholder shall cause such nominee to, make himself or herself available for interviews with the Board of Directors and any duly authorized committee thereof within five (5) business days of delivery of such request (or such other period as may be specified in such request).

(2) Without limiting the other provisions and requirements of this Section 2.9, unless otherwise required by applicable law, if any stockholder (i) provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act and (ii) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act, then the Corporation shall disregard any proxies or votes solicited for such stockholder's nominees. Upon request by the Corporation, if any stockholder provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act, such stockholder shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable documentary evidence (as determined by the Corporation or one of its representatives, acting in good faith) that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

Section 2.10 Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee for election or reelection as a director of the Corporation, a person nominated by a stockholder for election or reelection to the Board of Directors must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2.9 of these Bylaws) to the Secretary at the principal executive offices of the Corporation a completed written questionnaire in the same form the Corporation requests of the Board of Directors' nominees for director with respect to the identity, background and qualifications of such individual (which questionnaire shall be provided by the Secretary upon written request), and a written representation and agreement (in the form provided by the Secretary upon written request) that such individual (A) is not and will not become a party to (1) any agreement, arrangement or understanding (written or oral) with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been expressly disclosed in writing to the Corporation, or (2) any Voting Commitment that could limit or interfere with such individual's ability to comply, if elected as a director of the Corporation, with such individual's fiduciary duties under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding (written or oral) with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been expressly disclosed therein, (C) is not a party to any agreement, arrangement or understanding (written or oral) with any person or entity, that contemplates such person resigning as a member of the Board of Directors prior to the conclusion of the term of office to which such person was elected, and has not given any commitment or assurance (written or oral) to any person or entity that such person intends to, or if asked by such person or entity would, resign as a member of the Board of Directors prior to the end of the conclusion of the term of office to which such person was elected, except as expressly disclosed therein, (D) has expressly disclosed therein whether all or any portion of securities of the Corporation were purchased with any financial assistance provided by any other person and whether any other person has any interest in such securities, (E) would be in compliance, if elected as a director of the Corporation, with these Bylaws and all applicable policies and guidelines of the Corporation, including, without limitation, those relating to codes of ethics and/or business conduct, corporate governance, conflicts of interest, confidentiality, and stock ownership and stock trading (including with respect to hedging and pledging of the Corporation's securities) and will continue to comply with these Bylaws and all applicable policies and guidelines of the Corporation adopted or amended from time to time, (F) has disclosed to the Corporation any and all potential and actual conflicts of interest of such nominee with the Corporation, (G) is qualified, and consents to being named in the proxy materials as, a nominee, and agrees to serve as a member of the Board of Directors if elected as a director for the entire term for which such proposed nominee is standing for election, and (H) will abide by the requirements of Section 2.11 of these Bylaws.

Section 2.11 Procedure for Election of Directors; Required Vote.

(A) Except as set forth below, election of directors at all meetings of the stockholders at which directors are to be elected shall be by ballot, and, subject to the rights of the holders of any series of Preferred Stock to elect directors, a majority of the votes cast at any meeting for the election of directors at which a quorum is present shall elect directors. For purposes of this Section 2.11, a majority of votes cast shall mean that the number of shares voted "for" a director's election exceeds fifty percent (50%) of the number of votes cast with respect to that director's election.

Votes cast shall include direction to withhold authority in each case and exclude abstentions with respect to that director's election. Notwithstanding the foregoing, in the event of a "contested election" of directors, directors shall be elected by the vote of a plurality of the votes cast at any meeting for the election of directors at which a quorum is present. For purposes of this Section 2.11, a "contested election" shall mean any election of directors in which the number of candidates for election as directors exceeds the number of directors to be elected, with the determination thereof being made by the Secretary as of the later of (i) the close of the applicable notice of nomination period set forth in Section 2.9 of these Bylaws or under applicable law and (ii) the last day on which a Proxy Access Notice may be delivered in accordance with the procedures set forth in Section 9.1, based on whether one or more notice(s) of nomination or Proxy Access Notice(s) were timely filed in accordance with said Section 2.9 and/or Section 9.1, as applicable; provided, however, that the determination that an election is a "contested election" shall be determinative only as to the timeliness of a notice of nomination and not otherwise as to its validity. If, prior to the time the Corporation mails its initial proxy statement in connection with such election of directors (regardless of whether or not such proxy statement is thereafter revised or supplemented), one or more notices of nomination are withdrawn such that the number of candidates for election as director no longer exceeds the number of directors to be elected, the election shall not be considered a contested election, but in all other cases, once an election is determined to be a contested election, directors shall be elected by the vote of a plurality of the votes cast.

(B) If a nominee for director who is an incumbent director is not elected and no successor has been elected at such meeting, the director is expected to promptly tender his or her resignation to the Board of Directors in accordance with the agreement contemplated by Section 2.10 of these Bylaws. The Governance and Nominating Committee shall make a recommendation to the Board of Directors as to whether to accept or reject the tendered resignation, or whether other action should be taken. The Board of Directors shall act on the tendered resignation, taking into account the Governance and Nominating Committee's recommendation, and publicly disclose (by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication) its decision regarding the tendered resignation and the rationale behind the decision within ninety (90) days from the date of the certification of the election results. The Governance and Nominating Committee in making its recommendation, and the Board of Directors in making its decision, may each consider any factors or other information that it considers appropriate and relevant. The director who tenders his or her resignation shall not participate in the recommendation of the Governance and Nominating Committee or the decision of the Board of Directors with respect to his or her resignation. If such incumbent director's resignation is not accepted by the Board of Directors, such director shall continue to serve until the next annual meeting and until his or her successor is duly elected, or his or her earlier resignation or removal. If a director's resignation is accepted by the Board of Directors pursuant to this Section 2.11, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board of Directors, in its sole discretion, may fill any resulting vacancy pursuant to the provisions of Section 3.10 of these Bylaws or may decrease the size of the Board of Directors pursuant to the provisions of Section 3.2 of these Bylaws.

(C) Except as otherwise provided by law, the Certificate of Incorporation, or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the stockholders. To the extent required, the vote of a plurality of the votes cast

shall be the act of the stockholders with respect to the non-binding advisory vote pursuant to Section 14A(a)(2) of the Exchange Act to determine whether the advisory vote on executive compensation shall occur every one year, every two years, or every three years; provided that for purposes of any vote required pursuant to this sentence, neither abstentions nor broker non-votes shall count as votes cast.

Section 2.12 Inspectors of Elections; Opening and Closing the Polls. The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may, but do not need to, include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meetings of stockholders and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging 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. The inspectors shall have the duties prescribed by law.

The chairman of the meeting shall fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting.

Section 2.13 Stockholder Action by Written Consent. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation at an 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 in writing, setting forth the action so taken, shall be signed by holders of all of the shares entitled to vote with respect to the action that is the subject of the consent. No written consent shall be effective to take the action referred to therein unless written consents signed by holders of all of the shares entitled to vote with respect to such action are delivered to and received by the Corporation within sixty (60) days of the date the earliest dated written consent was received by the Corporation. Every written consent shall be signed by one or more persons who as of the record date are stockholders of record on such record date, shall bear the date of signature of each such stockholder, and shall set forth the name and address, as they appear in the Corporation's books, of each stockholder signing such consent and the class and number of shares of the Corporation which are owned of record and beneficially by each such stockholder and shall be delivered to and received by the Secretary of the Corporation at the Corporation's principal office by hand or by certified or registered mail, return receipt requested.

Section 2.14 Record Date for Action by Written Consent. In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing 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 date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall request the Board of Directors to fix a record date, which request shall be in proper form and delivered to the Secretary

at the principal executive offices of the Corporation. To be in proper form, such request must be in writing and shall state the purpose or purposes of the action or actions proposed to be taken by written consent.

The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business or to any officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by applicable law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the date on which the Board of Directors adopts the resolution taking such prior action.

Section 2.15 Inspectors of Written Consent. In the event of the delivery, in the manner provided by Section 2.13 of these Bylaws, to the Corporation of the requisite written consents to take corporate action and/or any related revocation or revocations, the Corporation shall engage nationally recognized independent inspectors of elections for the purpose of promptly performing a ministerial review of the validity of the consents and revocations. For the purpose of permitting the inspectors to perform such review, no action by written consent without a meeting shall be effective until such date as the independent inspectors certify to the Corporation that the consents delivered to the Corporation in accordance with Section 2.13 of these Bylaws represent all of the shares entitled to vote with respect to the action that is the subject of the consent. Nothing contained in this paragraph shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any consent or revocation thereof, whether before or after such certification by the independent inspectors, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

ARTICLE III
BOARD OF DIRECTORS

Section 3.1 General Powers. 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 by these Bylaws expressly conferred upon them, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders.

Section 3.2 Number and Tenure. Subject to the rights of the holders of any series of Preferred Stock to elect directors, the number of directors shall be fixed from time to time exclusively pursuant to a resolution adopted by a majority of the Whole Board. No decrease in the

number of authorized directors constituting the Whole Board shall shorten the term of any incumbent director.

Section 3.3 Election of Directors. The directors shall be elected at the annual meetings of stockholders as specified in the Certificate of Incorporation except as otherwise provided in the Certificate of Incorporation and in these Bylaws, and each director of the Corporation shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

Section 3.4 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such times and at such places as may be determined from time to time by the Board of Directors.

Section 3.5 Special Meetings. Special meetings of the Board of Directors shall be called at the request of the Chairman of the Board of Directors, the Chief Executive Officer or a majority of the Board of Directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place, if any, date and time of the meetings.

Section 3.6 Notice of Meeting. Notice of any special meeting of directors shall be given to each director at such person's business or residence in writing by hand delivery, first-class or overnight mail or courier service, email or electronic or facsimile transmission, or orally by telephone in accordance with the applicable provisions of the DGCL. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 7.4 of these Bylaws.

Section 3.7 Action by Consent of Board of Directors. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing(s) or electronic transmission(s) are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 3.8 Meetings by Conference Telephone or by Use of Other Communications Equipment. Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such 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 in a meeting shall constitute presence in person at such meeting.

Section 3.9 Quorum. Subject to Section 3.10 of these Bylaws, a whole number of directors equal to at least a majority of the Whole Board shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. The directors present at a duly

organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

Section 3.10 Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and unless the Board of Directors otherwise determines, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by a sole remaining director, and directors so chosen shall hold office for a term expiring at the next annual meeting of stockholders and until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors constituting the Whole Board shall shorten the term of any incumbent director.

Section 3.11 Committees. The Board of Directors may designate any such committee as the Board of Directors considers appropriate, which shall consist of one or more directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee may to the extent permitted by law exercise such powers and shall have such responsibilities as shall be specified in the designating resolution. Each committee shall keep written minutes of its proceedings and shall report such proceedings to the Board of Directors as appropriate.

A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in Section 3.6 of these Bylaws. The Board of Directors shall have power at any time to fill vacancies in, to change the membership of, or to dissolve, any such committee. Nothing herein shall be deemed to prevent the Board of Directors from appointing one or more committees consisting in whole or in part of persons who are not directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board of Directors.

Section 3.12 Removal. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any director, or the entire Board of Directors, may be removed from office at any time by the stockholders, with or without cause, by the affirmative vote of the holders of a majority of the then-outstanding shares of Voting Stock, voting together as a single class.

ARTICLE IV
OFFICERS

Section 4.1 Elected Officers. The elected officers of the Corporation shall be a Chief Executive Officer, a President, a Chief Financial Officer, a Secretary, a Treasurer, and such other officers as the Board of Directors from time to time may deem proper. Any number of offices may be held by the same person. All officers elected by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers shall also have such powers and duties as from time to time may

be conferred by the Board of Directors or by any committee thereof. The Board or any committee thereof may from time to time elect, or the Chief Executive Officer may appoint, such other officers (including one or more Assistant Vice Presidents, Assistant Secretaries, and Assistant Treasurers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as shall be provided in these Bylaws or as may be prescribed by the Board of Directors or such committee or by the Chief Executive Officer, as the case may be.

Section 4.2 Election and Term of Office. The elected officers of the Corporation shall be elected by the Board of Directors. Each officer shall hold office until such officer's successor shall have been duly elected and shall have qualified or until such officer's earlier death, resignation or removal.

Section 4.3 Chairman of the Board of Directors. The Chairman of the Board of Directors shall be chosen from among the directors and may be the Chief Executive Officer. The Chairman of the Board of Directors shall preside over all meetings of the Board of Directors.

Section 4.4 Chief Executive Officer. The Chief Executive Officer shall be responsible for the general management of the affairs of the Corporation and shall perform all duties incidental to the office which may be required by applicable law and all such other duties as are properly required of the Chief Executive Officer by the Board of Directors. The Chief Executive Officer shall make reports to the Board of Directors and the stockholders, and shall see that all orders and resolutions of the Board of Directors and of any committee thereof are carried into effect. The Chief Executive Officer of the Corporation may also serve as President, if so elected by the Board of Directors.

Section 4.5 President. If the President is not the Chief Executive Officer, the President shall act in a general executive capacity and shall assist the Chief Executive Officer in the administration and operation of the Corporation's business and general supervision of its policies and affairs.

Section 4.6 Vice Presidents. Each Vice President shall have such powers and shall perform such duties as shall be assigned to such Vice President by the Board of Directors, the Chief Executive Officer or the President.

Section 4.7 Chief Financial Officer. The Chief Financial Officer shall act in an executive financial capacity. The Chief Financial Officer shall assist the Chief Executive Officer and the President in the general supervision of the Corporation's financial policies and affairs.

Section 4.8 Treasurer. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall cause the funds of the Corporation to be deposited in such banks as may be authorized by the Board of Directors, or in such banks as may be designated as depositaries in the manner provided by resolution of the Board of Directors. The Treasurer shall have such further powers and duties as shall be prescribed from time to time by the Board of Directors, the Chief Executive Officer, or the President.

Section 4.9 Secretary. The Secretary shall keep or cause to be kept in one or more books provided for that purpose, the minutes of all meetings of the Board of Directors, the committees

of the Board of Directors and the stockholders; the Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by applicable law; the Secretary shall be custodian of the records and the seal of the Corporation and affix and attest the seal to all stock certificates of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal; and the Secretary shall see that the books, reports, statements, certificates and other documents and records required by applicable law to be kept and filed are properly kept and filed; and in general, the Secretary shall perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to such Secretary by the Board of Directors, the Chief Executive Officer, or the President.

Section 4.10 Removal. The Chief Executive Officer, the President, and the Chief Financial Officer may be removed from office with or without cause by the affirmative vote of a majority of the Whole Board. Any other officer elected, or agent appointed, by the Board of Directors may be removed from office with or without cause by the affirmative vote of a majority of the Board of Directors then in office. Any officer or agent appointed by the Chief Executive Officer, the President or the Chief Financial Officer may be removed by the officer that appointed such officer or agent with or without cause.

Section 4.11 Vacancies. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors. Any vacancy in an office appointed by the Chief Executive Officer or the President because of death, resignation, or removal may be filled by the Chief Executive Officer or the President.

ARTICLE V
STOCK CERTIFICATES AND TRANSFERS

Section 5.1 Certificated and Uncertificated Stock; Transfers. The interest of each stockholder of the Corporation may be evidenced by certificates for shares of stock in such form as the appropriate officers of the Corporation may from time to time prescribe or may be uncertificated.

The shares of the stock of the Corporation shall be transferred on the books of the Corporation, in the case of certificated shares of stock, by the holder thereof in person or by such person's attorney duly authorized in writing, upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require; and, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney duly authorized in writing, and upon compliance with appropriate procedures for transferring shares in uncertificated form. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

The certificates of stock shall be signed, countersigned and registered in such manner as the Board of Directors may by resolution prescribe, which resolution may permit all or any of the

signatures on such certificates to be in facsimile. 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.

Notwithstanding anything to the contrary in these Bylaws, at all times that the Corporation's stock is listed on a stock exchange, the shares of the stock of the Corporation shall comply with all direct registration system eligibility requirements established by such exchange, including any requirement that shares of the Corporation's stock be eligible for issue in book-entry form. All issuances and transfers of shares of the Corporation's stock shall be entered on the books of the Corporation with all information necessary to comply with such direct registration system eligibility requirements, including the name and address of the person to whom the shares of stock are issued, the number of shares of stock issued and the date of issue. The Board of Directors shall have the power and authority to make such rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of shares of stock of the Corporation in both the certificated and uncertificated form.

Section 5.2 Lost, Stolen or Destroyed Certificates. No certificate for shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or any financial officer may in its or such person's discretion require.

Section 5.3 Record Owners. 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 to hold liable for calls and assessments a person registered on its books as the owner of shares, 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 applicable law.

Section 5.4 Transfer and Registry Agents. The Corporation may from time to time maintain one or more transfer offices or agencies and registry offices or agencies at such place or places as may be determined from time to time by the Board of Directors or by the Chief Executive Officer or President.

ARTICLE VI
INDEMNIFICATION

Section 6.1 Indemnification. Each person who was or is a party to, or is otherwise threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she (or a person of whom he or she is the legal representative), is or was, at any time during which this Section 6.1 is in effect (whether or not such person continues to serve in such capacity at the time any indemnification or advancement of expenses pursuant hereto is sought or at the time any Proceeding relating thereto exists or is brought), a director or officer of the Corporation

or, while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, trustee, employee or agent of another corporation, or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation (each such director or officer, a "Covered Person"), shall be (and shall be deemed to have a contractual right to be) indemnified and held harmless by the Corporation (and any successor of the Corporation by merger or otherwise) to the fullest extent permitted by the DGCL as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater indemnification rights than the DGCL permitted the Corporation to provide prior to such amendment or modification), against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith; provided, however, that the Corporation shall indemnify any such Covered Person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such Covered Person only if such Proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

Section 6.2 Advance of Expenses. To the fullest extent permitted by the DGCL as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater rights to advancement of expenses than said law permitted the Corporation to provide prior to such amendment or modification), each Covered Person shall have (and shall be deemed to have a contractual right to have) the right, without the need for any action by the Board of Directors, to be paid by the Corporation (and any successor of the Corporation by merger or otherwise) the expenses incurred in connection with any Proceeding in advance of its final disposition, such advances to be paid by the Corporation within twenty (20) days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, that if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not, except to the extent specifically required by applicable law, in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, the "Undertaking") by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal (a "final disposition") that such director or officer is not entitled to be indemnified for such expenses under this Section 6.2 or otherwise.

Section 6.3 Non-Exclusivity of Rights. The rights conferred on any person in this Article VI, shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote or consent of stockholders or directors. Additionally, nothing in this Article VI shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article VI. The Board of Directors shall have the power to delegate to such officer or other person as the Board of Directors shall specify the determination of whether indemnification shall be given to any person pursuant to this Section 6.3.

Section 6.4 Indemnification Contracts. The Board of Directors is authorized to cause the Corporation to enter into indemnification contracts with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing indemnification rights to such person. Such rights may be greater than those provided in this Article VI.

Section 6.5 Continuation of Indemnification. The rights to indemnification and to advancement of expenses provided by, or granted pursuant to, this Article VI shall continue notwithstanding that the person has ceased to be a Covered Person and shall inure to the benefit of his or her estate, heirs, executors, administrators, legatees and distributees; provided, however, that the Corporation shall indemnify any such person seeking indemnity in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors.

Section 6.6 Effect of Amendment or Repeal. The provisions of this Article VI shall constitute a contract between the Corporation, on the one hand, and, on the other hand, each individual who serves or has served as a Covered Person (whether before or after the adoption of these Bylaws), in consideration of such person's performance of such services, and pursuant to this Article VI, the Corporation intends to be legally bound to each such current or former Covered Person. With respect to current and former Covered Persons, the rights conferred under this Article VI are present contractual rights and such rights are fully vested, and shall be deemed to have vested fully, immediately upon adoption of these Bylaws. With respect to any Covered Persons who commence service following adoption of these Bylaws, the rights conferred under this Article VI shall be present contractual rights, and such rights shall fully vest, and be deemed to have vested fully, immediately upon such Covered Person's service in the capacity which is subject to the benefits of this Article VI.

Section 6.7 Notice. Any notice, request or other communication required or permitted to be given to the Corporation under this Article VI shall be in writing and either delivered in person or sent by telecopy, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

Section 6.8 Severability. If any provision or provisions of this Article VI shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Article VI (including, without limitation, each portion of any paragraph of this Article VI containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Article VI (including, without limitation, each such portion of any paragraph of this Article VI containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE VII
MISCELLANEOUS PROVISIONS

Section 7.1 Fiscal Year. The fiscal year of the Corporation shall end on the 31st day of December; provided, that the Board of Directors shall have the power, from time to time, to fix a different fiscal year of the Corporation by a duly adopted resolution.

Section 7.2 Dividends. The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and the Certificate of Incorporation.

Section 7.3 Seal. The corporate seal, if the Corporation shall have a corporate seal, shall have inscribed thereon the words "Corporate Seal, Delaware," the name of the Corporation and the year of its organization. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 7.4 Waiver of Notice. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the DGCL, the Certificate of Incorporation or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such 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 the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting.

Section 7.5 Resignations. Any director or any officer, whether elected or appointed, may resign at any time by giving written notice of such resignation to the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary, and such resignation shall be deemed to be effective as of the close of business on the date said notice is received by the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary, or at such later time as is specified therein. Except to the extent specified in such notice, no formal action shall be required of the Board of Directors or the stockholders to make any such resignation effective.

ARTICLE VIII
CONTRACTS, PROXIES, ETC.

Section 8.1 Contracts. Except as otherwise required by applicable law, the Certificate of Incorporation or these Bylaws, any contracts or other instruments may be executed and delivered in the name and on behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board of Directors may determine. The Chairman of the Board of Directors, the Chief Executive Officer, any President, and any Executive or Senior Vice President may execute bonds, contracts, deeds, leases, and other instruments to be made or executed by or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors or the Chairman of the Board of Directors, the Chief Executive Officer, the President or any Vice President of the Corporation may delegate contractual powers to others under his or her

jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 8.2 Proxies. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer, the President or any Executive or Senior Vice President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

ARTICLE IX
PROXY ACCESS

Section 9.1 Inclusion of Stockholder Director Nominations in the Corporation's Proxy Materials. Subject to the terms and conditions set forth in these Bylaws, the Corporation shall include in its proxy statement for an annual meeting of stockholders the name, together with the Required Information (as defined in paragraph (A) below), of an eligible person nominated for election (the "Stockholder Nominee") to the Board of Directors by a stockholder or group of stockholders that satisfy the requirements of this Section 9.1, including qualifying as an Eligible Stockholder (as defined in paragraph (D) below) and that expressly elects at the time of providing the written notice required by this Section 9.1 (a "Proxy Access Notice") to have its nominee(s) included in the Corporation's proxy statement pursuant to this Section 9.1. For the purposes of this Section 9.1:

(1) "Constituent Holder" shall mean any stockholder, collective investment fund included within a Qualifying Fund (as defined in paragraph (D) below) or beneficial holder whose stock ownership is counted for the purposes of qualifying as holding the Proxy Access Request Required Shares (as defined in paragraph (D) below) or qualifying as an Eligible Stockholder (as defined in paragraph (D) below);

(2) "affiliate" and "associate" shall have the meanings ascribed thereto in Rule 405 under the Securities Act of 1933, as amended; provided, however, that the term "partner" as used in the definition of "associate" shall not include any limited partner that is not involved in the management of the relevant partnership; and

(3) a stockholder (including any Constituent Holder) shall be deemed to "own" only those outstanding shares of Voting Stock as to which the stockholder itself, such Constituent Holder itself, or any stockholder fund comprising a Qualifying Fund, possesses both (a) the full voting and investment rights pertaining to the shares and (b) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (a) and (b) shall

be deemed not to include (and to the extent any of the following arrangements have been entered into by affiliates of the stockholder, shall be reduced by) any shares (x) sold by such stockholder (or its affiliates) in any transaction that has not been settled or closed, including any short sale, (y) borrowed by such stockholder (or its affiliates) for any purposes or purchased by such stockholder (or its affiliates) pursuant to an agreement to resell, or (z) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such stockholder (or its affiliates), whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of Voting Stock, in any such case which instrument or agreement has, or is intended to have, or if exercised by either party thereto would have, the purpose or effect of (i) reducing in any manner, to any extent or at any time in the future, such stockholder's (or its affiliate's) full right to vote or direct the voting of any such shares, and/or (ii) hedging, offsetting or altering to any degree gain or loss arising from the full economic ownership of such shares by such stockholder (or its affiliate), other than any such arrangements solely involving an exchange listed multi-industry market index fund in which Voting Stock represents at the time of entry into such arrangement less than ten percent (10%) of the proportionate value of such index. A stockholder shall "own" shares held in the name of a nominee or other intermediary so long as the stockholder itself retains the right to instruct how the shares are voted with respect to the election of directors and the right to direct the disposition thereof and possesses the full economic interest in the shares. A stockholder's ownership of shares shall be deemed to continue during any period in which such person has loaned such shares or delegated any voting power over such shares by means of a proxy, power of attorney or other instrument or arrangement which in all such cases is revocable at any time by the stockholder. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings.

(A) For purposes of this Section 9.1, the "Required Information" that the Corporation shall include in its proxy statement is (1) the information concerning the Stockholder Nominee and the Eligible Stockholder that the Corporation determines is required to be disclosed in the Corporation's proxy statement by the regulations promulgated under the Exchange Act; and (2) if the Eligible Stockholder so elects, a Statement (as defined in paragraph (F) below). The Corporation shall also include the name of the qualifying Stockholder Nominee in its proxy card. For the avoidance of doubt, and any other provision of these Bylaws notwithstanding, the Corporation may in its sole discretion solicit against, and include in the proxy statement its own statements or other information relating to, any Eligible Stockholder and/or Stockholder Nominee, including any information provided to the Corporation with respect to the foregoing.

(B) To be timely, a stockholder's Proxy Access Notice must be delivered to the principal executive offices of the Corporation no earlier than one hundred and fifty (150) days and no later than one hundred and twenty (120) days before the one-year anniversary of the date that the Corporation commenced mailing of its definitive proxy statement (as stated in such proxy statement) for the immediately preceding annual meeting with the Securities and Exchange Commission. In no event shall any adjournment or postponement of an annual meeting, the date

of which has been announced by the Corporation, commence a new time period for the giving of a Proxy Access Notice.

(C) The number of Stockholder Nominees (including Stockholder Nominees that were submitted by an Eligible Stockholder for inclusion in the Corporation's proxy materials pursuant to this Section 9.1 but either are subsequently withdrawn or that the Board of Directors decides to nominate as Board of Directors' nominees or otherwise appoint to the Board of Directors) appearing in the Corporation's proxy materials with respect to an annual meeting of stockholders shall not exceed the greater of (x) two (2) and (y) the largest whole number that does not exceed twenty percent (20%) of the number of directors in office as of the last day on which a Proxy Access Notice may be delivered in accordance with the procedures set forth in this Section 9.1 (such greater number, the "Permitted Number"); provided, however, that the Permitted Number shall be reduced by the number of:

(1) directors in office with respect to whom a Proxy Access Notice was previously provided to the Corporation pursuant to this Section 9.1, other than (a) any such director whose term of office will expire at such annual meeting and who is not nominated by the Corporation at such annual meeting for another term of office and who is not seeking or agreeing to be nominated at such meeting for another term of office, and (b) any such director who at the time of such annual meeting will have served continuously, as a nominee of the Board of Directors, for at least two (2) years; and

(2) directors in office or director candidates that, in either case, were elected or appointed to the Board of Directors or will be included in the Corporation's proxy statement with respect to such annual meeting as an unopposed (by the Corporation) nominee pursuant to an agreement, arrangement or other understanding with a stockholder or group of stockholders (other than any such agreement, arrangement or understanding entered into in connection with an acquisition of shares of Voting Stock, by such stockholder or group of stockholders, from the Corporation), other than any such director referred to in this clause (2) who at the time of such annual meeting will have served as a director continuously, as a nominee of the Board of Directors, for at least two (2) years, but only to the extent the Permitted Number after such reduction with respect to this clause (2) equals or exceeds one (1);

provided, further, that in no circumstance shall the Permitted Number exceed the number of directors to be elected at the applicable annual meeting as noticed by the Corporation; provided, further, that in the event the Board of Directors resolves to reduce the size of the Board of Directors effective on or prior to the date of the annual meeting, the Permitted Number shall be calculated based on the number of directors in office as so reduced. Any Eligible Stockholder submitting more than one Stockholder Nominee for inclusion in the Corporation's proxy statement pursuant to this Section 9.1 shall (i) rank such Stockholder Nominees based on the order that the Eligible Stockholder desires such Stockholder Nominees to be selected for inclusion in the Corporation's proxy statement in the event that the number of Stockholder Nominees submitted by the Eligible Stockholder pursuant to this Section 9.1 exceeds the Permitted Number and (ii) explicitly specify and include the respective rankings referred to in the foregoing clause (i) in the Proxy Access Notice delivered to the Corporation with respect to all Stockholder Nominees submitted pursuant thereto. In the event that the number of Stockholder Nominees submitted by Eligible Stockholders

pursuant to this Section 9.1 exceeds the Permitted Number, each Eligible Stockholder will have its highest ranking Stockholder Nominee (as ranked pursuant to the preceding sentence) who meets the requirements of this Section 9.1 selected for inclusion in the Corporation's proxy materials until the Permitted Number is reached, going in order of the amount (largest to smallest) of shares of Voting Stock each Eligible Stockholder disclosed as owned in its Proxy Access Notice submitted to the Corporation (with the understanding that an Eligible Stockholder may not ultimately have any of its Stockholder Nominees included if the Permitted Number has previously been reached). If the Permitted Number is not reached after each Eligible Stockholder has had one (1) Stockholder Nominee selected, this selection process shall continue as many times as necessary, following the same order each time, until the Permitted Number is reached. After reaching the Permitted Number of Stockholder Nominees, if any Stockholder Nominee who satisfies the eligibility requirements in this Section 9.1 thereafter withdraws, has his or her nomination withdrawn or is thereafter not submitted for director election, no other nominee or nominees shall be required to be substituted for such Stockholder Nominee and included in the Corporation's proxy statement or otherwise submitted for director election pursuant to this Section 9.1.

(D) An "Eligible Stockholder" is one or more stockholders of record who own and have owned, or are acting on behalf of one or more beneficial owners who own and have owned (in each case as defined above), in each case continuously for at least three (3) years as of both the date that the Proxy Access Notice is received by the Corporation pursuant to this Section 9.1, and as of the record date for determining stockholders eligible to vote at the annual meeting, at least three percent (3%) of the aggregate voting power of the Voting Stock (the "Proxy Access Request Required Shares"), and who continue to own the Proxy Access Request Required Shares at all times between the date such Proxy Access Notice is received by the Corporation and the date of the applicable annual meeting, provided that the aggregate number of stockholders, and, if and to the extent that a stockholder is acting on behalf of one or more beneficial owners, of such beneficial owners, whose stock ownership is counted for the purpose of satisfying the foregoing ownership requirement may not exceed twenty (20). Two or more collective investment funds that are (I) under common management and investment control, (II) under common management and funded primarily by the same employers or (III) a "group of investment companies" as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940 (a "Qualifying Fund") will be treated as one stockholder for the purpose of determining the aggregate number of stockholders in this paragraph (D), provided that each fund included within a Qualifying Fund otherwise meets the requirements set forth in this Section 9.1. No shares may be attributed to more than one group constituting an Eligible Stockholder under this Section 9.1 (and, for the avoidance of doubt, no stockholder may be a member of more than one group constituting an Eligible Stockholder). A record holder acting on behalf of one or more beneficial owners will not be counted separately as a stockholder with respect to the shares owned by beneficial owners on whose behalf such record holder has been directed in writing to act, but each such beneficial owner will be counted separately, subject to the other provisions of this paragraph (D), for purposes of determining the number of stockholders whose holdings may be considered as part of an Eligible Stockholder's holdings. For the avoidance of doubt, Proxy Access Request Required Shares will qualify as such if and only if the beneficial owner of such shares as of the date of the Proxy Access Notice has itself individually beneficially owned such shares continuously for the three-year period ending on that date and through the other applicable dates referred to above (in addition to the other applicable requirements being met).

(E) No later than the final date when a Proxy Access Nomination pursuant to this Section 9.1 may be timely delivered to the Corporation, an Eligible Stockholder (including each Constituent Holder) must provide the following information in writing to the Secretary of the Corporation:

(1) with respect to each Constituent Holder, the information, representations and agreements that would be required to be provided in a stockholder's notice of nomination pursuant to the requirements of Section 2.9(C) and Section 2.10 of these Bylaws (other than any such information, representations and agreements to be made relating specifically to the requirements of Rule 14a-19 promulgated under the Exchange Act);

(2) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings (written or oral) during the past three (3) years, and any other material relationships, between or among the Eligible Stockholder (including any Constituent Holder) and its or their respective affiliates and associates, on the one hand, and each of such Eligible Stockholder's Stockholder Nominee(s), on the other hand, including without limitation all information that would be required to be disclosed pursuant to Item 404 promulgated under Regulation S-K if the Eligible Stockholder (including any Constituent Holder), or any affiliate or associate thereof, were the "registrant" for purposes of such Item and the Stockholder Nominee were a director or executive officer of such registrant;

(3) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period) verifying that, as of a date within seven (7) calendar days prior to the date the Proxy Access Notice is delivered to the Corporation, such person owns, and has owned continuously for the preceding three (3) years, the Proxy Access Request Required Shares, and such person's agreement to provide:

(a) within ten (10) days after the record date for the annual meeting, written statements from the record holder and intermediaries verifying such person's continuous ownership of the Proxy Access Request Required Shares through the record date, together with any additional information reasonably requested to verify such person's ownership of the Proxy Access Request Required Shares; and

(b) immediate notice if the Eligible Stockholder ceases to own any of the Proxy Access Request Required Shares prior to the date of the applicable annual meeting of stockholders;

(4) a representation that such person:

(a) acquired the Proxy Access Request Required Shares in the ordinary course of business and not with the intent to change or influence control of the Corporation, and does not presently have such intent;

(b) has not nominated and will not nominate for election to the Board of Directors at the annual meeting any person other than the Stockholder Nominee(s) being nominated pursuant to this Section 9.1;

(c) has not engaged and will not engage in, and has not and will not be a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the annual meeting other than its Stockholder Nominee(s) or a nominee of the Board of Directors;

(d) will not distribute to any stockholder any form of proxy for the annual meeting other than the form distributed by the Corporation; and

(e) will provide facts, statements and other information in all communications with the Corporation and its stockholders that are and will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and will otherwise comply with all applicable laws, rules and regulations in connection with any actions taken pursuant to this Section 9.1;

(5) in the case of a nomination by a group of stockholders that together is such an Eligible Stockholder, the designation by all group members of one group member that is authorized to act on behalf of all members of the nominating stockholder group with respect to the nomination and matters related thereto, including withdrawal of the nomination; and

(6) an undertaking that such person agrees to:

(a) assume all liability stemming from, and indemnify and hold harmless the Corporation and its affiliates and each of its and their directors, officers, and employees individually against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its affiliates, or any of its or their directors, officers or employees arising out of any legal or regulatory violation arising out of the Eligible Stockholder's communications with the stockholders of the Corporation or out of the information that the Eligible Stockholder (including such person) provided to the Corporation or out of any failure of the Eligible Stockholder to comply with, or any breach of, its obligations, agreements or representations pursuant to these Bylaws;

(b) comply with all laws, rules, regulations, and listing standards applicable to nominations or solicitations in connection with the annual meeting of stockholders, and promptly provide the Corporation with such other information as the Corporation may reasonably request; and

(c) file with the Securities and Exchange Commission any solicitation by the Eligible Stockholder of stockholders of the Corporation relating to the annual meeting at which the Stockholder Nominee will be nominated.

In addition, no later than the final date when a Proxy Access Notice pursuant to this Section 9.1 may be timely delivered to the Corporation, a Qualifying Fund whose stock ownership is counted for purposes of qualifying as an Eligible Stockholder must provide to the Secretary of the Corporation documentation reasonably satisfactory to the Board of Directors that demonstrates that the funds included within the Qualifying Fund satisfy the definition thereof. In order to be considered timely, any information required by this Section 9.1 to be provided to the Corporation must be supplemented (by delivery to the Secretary of the Corporation) (1) no later than ten (10) days following the record date for the applicable annual meeting, to disclose the foregoing information as of such record date, and (2) no later than the fifth day before the annual meeting, to disclose the foregoing information as of the date that is no earlier than ten (10) days prior to such annual meeting. For the avoidance of doubt, the requirement to update and supplement such information shall not permit any Eligible Stockholder or other person to change or add any proposed Stockholder Nominee or be deemed to cure any defects or limit the remedies (including without limitation under these Bylaws) available to the Corporation relating to any defect.

(F) The Eligible Stockholder may provide to the Secretary of the Corporation, at the time the information required by this Section 9.1 is originally provided, a written statement for inclusion in the Corporation's proxy statement for the annual meeting, not to exceed five hundred (500) words, in support of the candidacy of such Eligible Stockholder's Stockholder Nominee (the "Statement"). Notwithstanding anything to the contrary contained in this Section 9.1, the Corporation may omit from its proxy materials any information or Statement that it, in good faith, believes is materially false or misleading, omits to state any material fact, or would violate any applicable law or regulation.

(G) No later than the final date when a Proxy Access Notice pursuant to this Section 9.1 may be timely delivered to the Corporation, each Stockholder Nominee must:

(1) provide an executed agreement, in a form deemed satisfactory by the Board of Directors or its designee (which form shall be provided by the Corporation reasonably promptly upon written request of a stockholder), that such Stockholder Nominee consents to being named in the proxy materials as a nominee;

(2) complete, sign and submit all questionnaires, representations, and agreements required by these Bylaws, including Section 2.9(C) and Section 2.10 of these Bylaws, or of the Corporation's directors generally; and

(3) provide such additional information as necessary to permit the Board of Directors to determine if such Stockholder Nominee:

(a) is independent under the listing standards of each principal U.S. exchange upon which the common stock of the Corporation is listed, any applicable rules of the Securities and Exchange Commission, and any publicly disclosed

standards used by the Board of Directors in determining and disclosing the independence of the Corporation's directors;

(b) has any direct or indirect relationship with the Corporation other than those relationships that have been deemed categorically immaterial pursuant to the Corporation's corporate governance guidelines;

(c) would, by serving on the Board of Directors, violate or cause the Corporation to be in violation of these Bylaws, the Certificate of Incorporation, the rules and listing standards of the principal U.S. exchange upon which the common stock of the Corporation is listed or any applicable law, rule or regulation; and

(d) is or has been subject to any event specified in Item 401(f) of Regulation S-K (or successor rule) of the Securities and Exchange Commission.

In the event that any information or communications provided by the Eligible Stockholder (or any Constituent Holder) or the Stockholder Nominee to the Corporation or its stockholders ceases to be true and correct in all material respects or omits a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, each Eligible Stockholder or Stockholder Nominee, as the case may be, shall promptly notify the Secretary of the Corporation of any defect in such previously provided information and of the information that is required to correct any such defect; it being understood for the avoidance of doubt that providing any such notification will not be deemed to cure any such defect or limit the remedies (including without limitation under these Bylaws) available to the Corporation relating to any such defect.

(H) Any Stockholder Nominee who is included in the Corporation's proxy materials for a particular annual meeting of stockholders but withdraws from or becomes ineligible or unavailable for election at that annual meeting (other than by reason of such Stockholder Nominee's disability or other health reason) shall be ineligible to be a Stockholder Nominee pursuant to this Section 9.1 for the next two annual meetings. Any Stockholder Nominee who is included in the Corporation's proxy statement for a particular annual meeting of stockholders, but subsequently is determined not to satisfy the eligibility requirements of this Section 9.1 or any other provision of these Bylaws, the Certificate of Incorporation or other applicable rules or regulation any time before the annual meeting of stockholders, shall not be eligible for election at the relevant annual meeting of stockholders.

(I) The Corporation will not be required to include, pursuant to this Section 9.1, any Stockholder Nominee in its proxy materials for any annual meeting of stockholders, or, if the proxy statement already has been filed, to allow the nomination of a Stockholder Nominee, notwithstanding that proxies in respect of such vote may have been received by the Corporation:

(1) who is not independent under the listing standards of the principal U.S. exchange upon which the common stock of the Corporation is listed, any applicable rules of the Securities and Exchange Commission and any publicly disclosed standards used by the Board of Directors in determining and disclosing independence of the Corporation's directors, in each case as determined by the Board of Directors;

(2) whose service as a member of the Board of Directors would violate or cause the Corporation to be in violation of these Bylaws, the Certificate of Incorporation, the rules and listing standards of the principal U.S. exchange upon which the common stock of the Corporation is traded, or any applicable law, rule or regulation;

(3) who is or has been, within the past three (3) years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, 15 U.S.C. §19;

(4) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten (10) years;

(5) who is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933;

(6) if the Eligible Stockholder (or any Constituent Holder) or applicable Stockholder Nominee otherwise breaches or fails to comply in any material respect with its obligations pursuant to this Section 9.1 or any agreement, representation or undertaking required by this Section;

(7) if the Eligible Stockholder ceases to be an Eligible Stockholder for any reason, including but not limited to not owning the Proxy Access Request Required Shares through the date of the applicable annual meeting; or

(8) if the Secretary of the Corporation receives a notice that any stockholder has nominated or intends to nominate a person for election to the Board of Directors at such annual meeting pursuant to Section 2.9 of these Bylaws.

For the purposes of this paragraph (I), clauses (1), (2), (3), (4) and (5) and, to the extent related to a breach or failure by the Stockholder Nominee, clause (6) will result in the exclusion from the proxy materials pursuant to this Section 9.1 of the specific Stockholder Nominee to whom the ineligibility applies, or, if the proxy statement already has been filed, the ineligibility of such Stockholder Nominee to be nominated; provided, however, that clause (7) and, to the extent related to a breach or failure by an Eligible Stockholder (or any Constituent Holder), clause (6) will result in the Voting Stock owned by such Eligible Stockholder (or Constituent Holder) being excluded from the Proxy Access Request Required Shares (and, if as a result the Proxy Access Notice will no longer have been filed by an Eligible Stockholder, the exclusion from the proxy materials pursuant to this Section 9.1 of all of the applicable stockholder's Stockholder Nominees from the applicable annual meeting of stockholders or, if the proxy statement has already been filed, the ineligibility of all of such stockholder's Stockholder Nominees to be nominated).

Notwithstanding anything to the contrary set forth herein, the Board of Directors or the person presiding at the annual meeting shall declare a nomination by an Eligible Stockholder to be invalid, and such nomination shall be disregarded and no vote on any such Stockholder Nominee shall occur, notwithstanding that proxies in respect of such vote may have been received by the Corporation, if (i) the Eligible Stockholder (or a qualified representative thereof) is not in attendance at the annual meeting to present any nomination pursuant to this Section 9.1 or (ii) the Eligible Stockholder (or any Constituent Holder) becomes ineligible to nominate a director for

inclusion in the Corporation's proxy materials pursuant to this Section 9.1 or withdraws its nomination or a Stockholder Nominee becomes unwilling, unavailable or ineligible to serve on the Board of Directors, whether before or after the Corporation's issuance of the definitive proxy statement.

ARTICLE X
AMENDMENTS

Section 10.1 By the Stockholders. Subject to the provisions of the Certificate of Incorporation, these Bylaws may be altered, amended or repealed, or new Bylaws enacted, at any special meeting of the stockholders if duly called for that purpose (provided that in the notice of such special meeting, notice of such purpose shall be given), or at any annual meeting, by the affirmative vote of a majority of the Voting Stock.

Section 10.2 By the Board of Directors. Subject to the laws of the State of Delaware, the Certificate of Incorporation and these Bylaws, these Bylaws may also be altered, amended or repealed, or new Bylaws enacted, by the Board of Directors.

ARTICLE XI
FORUM PROVISION

Section 11.1 Forum for Securities Act Claims. 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, to the fullest extent permitted by law, the sole and exclusive forum for any action asserting a claim arising under the Securities Act of 1933.

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-214420, 333-214423, 333-218038, and 333-228258) of Alcoa Corporation of our report dated May 20, 2024 relating to the financial statements of Alumina Limited, which appears in this Current Report on Form 8-K.

/s/ PricewaterhouseCoopers
Melbourne, Australia
August 1, 2024

Exhibit 99.1

FOR IMMEDIATE RELEASE

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Alcoa Completes Acquisition of Alumina Limited

Transaction Strengthens Alcoa's Leadership in Global Market

New "AAI" CDIs Listed on ASX

PITTSBURGH, August 1, 2024 – Alcoa Corporation (NYSE: AA; ASX: AAI) ("Alcoa" or the "Company") today announced the successful completion of its acquisition of Alumina Limited ("Alumina"). This strategic move positions Alcoa to further strengthen its market leadership as a pure play, upstream aluminum company.

"Alcoa is proud to announce the completion of our first major acquisition. The acquisition of Alumina Limited strengthens Alcoa's position as one of the world's largest bauxite and alumina producers and is expected to result in long-term value creation from greater financial and operational flexibility," said William F. Oplinger, Alcoa's President and CEO. "I want to thank both the Alcoa and Alumina Limited teams, and our advisors, for full cooperation and diligence in closing this transformational transaction on a very tight schedule."

With Alcoa's acquisition of Alumina, the Alcoa World Alumina and Chemicals (AWAC) joint venture is now fully owned and controlled by Alcoa. Alcoa previously held a 60 percent ownership interest in AWAC. AWAC consists of a number of affiliated entities that own, operate or have an interest in bauxite mines and alumina refineries in Australia, Brazil, Spain, Saudi Arabia and Guinea. AWAC also has a 55 percent interest in an aluminum smelter in Victoria, Australia.

Alcoa completed the acquisition of all ordinary shares of Alumina, through a wholly owned subsidiary, AAC Investments Australia 2 Pty Ltd. Under the all-scrip, or all-stock, transaction, Alumina shareholders received consideration of 0.02854 Alcoa shares for each Alumina share. Based on Alcoa's closing share price as of July 26, 2024, the consideration implies an equity value of approximately $2.8 billion for Alumina.

Alumina shareholders' interests in Alcoa shares are generally in the form of Clearing House Electronic Sub-register System ("CHESS") Depositary Interests ("CDIs") that represent a unit of beneficial ownership in a share of Alcoa common stock, which allows Alumina shareholders to trade Alcoa common stock via CDIs on the Australian Stock Exchange ("ASX"). Alcoa has established a secondary listing on the ASX with the ticker of "AAI." The CDIs will begin trading on the ASX on a normal basis on August 2, 2024.

Key Benefits of the Acquisition

Market Leadership: The combined entity solidifies Alcoa's position as a leading global supplier of alumina, enhancing its competitive edge in key markets. The acquisition increases Alcoa's economic exposure to its core, tier-1 bauxite and alumina business, and provides Alumina shareholders with exposure to Alcoa's global aluminum business.

Operational Efficiency: By integrating Alumina's interests, Alcoa anticipates achieving synergies through simplified corporate governance, resulting in greater operational flexibility and strategic optionality.

Commitment to Western Australia: Alcoa operations in Western Australia are a key component of the Company's portfolio, and this acquisition deepens that commitment.

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About Alcoa Corporation

Alcoa (NYSE: AA; ASX: AAI) is a global industry leader in bauxite, alumina and aluminum products with a vision to reinvent the aluminum industry for a sustainable future. With a values-based approach that encompasses integrity, operating excellence, care for people and courageous leadership, our purpose is to Turn Raw Potential into Real Progress. Since developing the process that made aluminum an affordable and vital part of modern life, our talented Alcoans have developed breakthrough innovations and best practices that have led to greater efficiency, safety, sustainability and stronger communities wherever we operate.

Cautionary Statement on Forward-Looking Statements

This news release contains statements that relate to future events and expectations and as such constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements include those containing such words as "aims," "ambition," "anticipates," "believes," "could," "develop," "endeavors," "estimates," "expects," "forecasts," "goal," "intends," "may," "outlook," "potential," "plans," "projects," "reach," "seeks," "sees," "should," "strive," "targets," "will," "working," "would," or other words of similar meaning. All statements by Alcoa that reflect expectations, assumptions or projections about the future, other than statements of historical fact, are forward-looking statements, including, without limitation, statements regarding forecasts concerning global demand growth for bauxite, alumina, and aluminum, and supply/demand balances; statements, projections or forecasts of future or targeted financial results, or operating performance (including our ability to execute on strategies related to environmental, social and governance matters); statements about strategies, outlook, and business and financial prospects; and statements about capital allocation and return of capital. These statements reflect beliefs and assumptions that are based on Alcoa's perception of historical trends, current conditions, and expected future developments, as well as other factors that management believes are appropriate in the circumstances.

Forward-looking statements are not guarantees of future performance and are subject to known and unknown risks, uncertainties, and changes in circumstances that are difficult to predict. Although Alcoa Corporation believes that the expectations reflected in any forward-looking statements are based on reasonable assumptions, it can give no assurance that these expectations will be attained and it is possible that actual results may differ materially from those indicated by these forward-looking statements due to a variety of risks and uncertainties. Such risks and uncertainties include, but are not limited to: (1) the impact of global economic conditions on the aluminum industry and aluminum end-use markets; (2) volatility and declines in aluminum and alumina demand and pricing, including global, regional, and product-specific prices, or significant changes in production costs which are linked to London Metal Exchange (LME) or other commodities; (3) the disruption of market-driven balancing of global aluminum supply and demand by non-market forces; (4) competitive and complex conditions in global markets; (5) our ability to obtain, maintain, or renew permits or approvals necessary for our mining operations; (6) rising energy costs and interruptions or uncertainty in energy supplies; (7) unfavorable changes in the cost, quality, or availability of raw materials or other key inputs, or by disruptions in the supply chain; (8) our ability to execute on our strategy to be a lower cost, competitive, and integrated aluminum production business and to realize the anticipated benefits from announced plans, programs, initiatives relating to our portfolio, capital investments, and developing technologies; (9) our ability to integrate and achieve intended results from joint ventures, other strategic alliances, and strategic business transactions; (10) economic, political, and social conditions, including the impact of trade policies and adverse industry publicity; (11) fluctuations in foreign currency exchange rates and interest rates, inflation and other economic factors in the countries in which we operate; (12) changes in tax laws or exposure to additional tax liabilities; (13) global competition within and beyond the aluminum industry; (14) our ability to obtain or maintain adequate insurance coverage; (15) disruptions in the global economy caused by ongoing regional conflicts; (16) legal proceedings, investigations, or changes in foreign and/or U.S. federal, state, or local laws, regulations, or policies; (17) climate change, climate change legislation or regulations, and efforts to reduce emissions and build operational resilience to extreme weather conditions; (18) our ability to achieve our strategies or expectations relating to environmental, social, and governance considerations; (19) claims, costs, and liabilities related to health, safety and environmental laws, regulations, and other requirements in the jurisdictions in which we operate; (20) liabilities resulting from impoundment structures, which could impact the environment or cause exposure to hazardous substances or other damage; (21) our ability to fund capital expenditures; (22) deterioration in our credit profile or increases in interest rates; (23) restrictions on our current and future operations due to our indebtedness; (24) our ability to continue to return capital to our stockholders through the payment of cash dividends and/or the repurchase of our common stock; (25) cyber attacks, security breaches, system failures, software or application vulnerabilities, or other cyber incidents; (26) labor market conditions, union disputes and other employee relations issues; (27) a decline in the liability discount rate or lower-than-expected investment returns on pension assets; and (28) the other risk factors discussed in Alcoa’s Annual

Report on Form 10-K for the fiscal year ended December 31, 2023 and other reports filed by Alcoa with the SEC, including those described in this report. Alcoa cautions readers not to place undue reliance upon any such forward-looking statements, which speak only as of the date they are made. Alcoa disclaims any obligation to update publicly any forward-looking statements, whether in response to new information, future events or otherwise, except as required by applicable law. Market projections are subject to the risks described above and other risks in the market. Neither Alcoa nor any other person assumes responsibility for the accuracy and completeness of any of these forward-looking statements and none of the information contained herein should be regarded as a representation that the forward-looking statements contained herein will be achieved.

Exhibit 99.3

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

On August 1, 2024, Alcoa Corporation ("Alcoa") completed the acquisition of all of the ordinary shares of Alumina Limited (the "Alumina Shares") through a wholly owned subsidiary, AAC Investments Australia 2 Pty Ltd (the "Transaction"). Under the Scheme Implementation Deed, dated as of March 12, 2024, as amended and restated by the Deed of Amendment and Restatement, dated as of May 20, 2024, the holders of Alumina Shares (the "Scheme Participants") received, for each such Alumina Share, 0.02854 Alcoa CHESS Depositary Interests ("New Alcoa CDIs"), each representing an ownership interest in a share of Alcoa common stock, except that (i) holders of Alumina Shares represented by American Depositary Shares, each of which represented 4 Alumina Shares, received, in lieu of the New Alcoa CDIs, for each Alumina Share, 0.02854 shares of Alcoa common stock and (ii) where the Scheme Participant was a certain affiliate of CITIC Group (the "CITIC Participant"), such CITIC Participant received, in lieu of the New Alcoa CDIs, for each Alumina Share, 0.02854 shares of newly-issued non-voting convertible preferred stock, par value $0.01 per share, of Alcoa (the "New Alcoa Preferred Stock"). Alumina Limited had 2,901,681,417 Alumina Shares outstanding on July 26, 2024, of which 2,760,056,014 shares converted into the Scheme Consideration that is, in the aggregate, the equivalent of 78,772,422 shares of Alcoa common stock. The remaining 141,625,403 Alumina Shares converted into the equivalent of 4,041,989 shares of New Alcoa Preferred Stock. See "*The Transaction*" beginning on page 47 of Alcoa's definitive proxy statement filed with the Securities and Exchange Commission ("SEC") on June 6, 2024 ("Proxy Statement").

The following unaudited pro forma condensed combined financial information presents the unaudited pro forma condensed combined statement of operations for the fiscal year ended December 31, 2023 and the quarter ended March 31, 2024 and the unaudited pro forma condensed combined balance sheet as of March 31, 2024. The unaudited pro forma condensed combined financial information includes the historical results of Alcoa and Alumina Limited after giving pro forma effect to the acquisition of Alumina Limited. The unaudited pro forma condensed combined statements of operations for the year ended December 31, 2023 and the quarter ended March 31, 2024 combine the historical audited and unaudited consolidated statement of operations of Alcoa for the corresponding periods, with the respective historical audited and unaudited consolidated statement of profit and loss of Alumina Limited for the corresponding periods, as if the Transaction had occurred on January 1, 2023. The unaudited pro forma condensed combined balance sheet as of March 31, 2024 combines the historical unaudited consolidated balance sheet of Alcoa and the historical unaudited consolidated balance sheet of Alumina Limited as of March 31, 2024, as if the Transaction had occurred on March 31, 2024.

The unaudited pro forma condensed combined financial information was based on and should be read in conjunction with Alcoa's and Alumina Limited's historical financial statements referenced below:

- Alcoa's audited consolidated financial statements and related notes thereto contained in its Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on February 21, 2024 and Alcoa's unaudited consolidated financial statements and related notes thereto contained in its Quarterly Report on Form 10-Q for the quarter ended March 31, 2024, filed with the SEC on May 2, 2024; and

- Alumina Limited's audited consolidated financial statements and related notes thereto for the year ended December 31, 2023 and unaudited consolidated financial statements for the quarter ended March 31, 2024, filed as Exhibit 99.2 to this Current Report.

The unaudited pro forma condensed combined financial statements were prepared in accordance with Article 11 of Regulation S-X as amended by the final rule, Release No. 33-10786 "*Amendments to Financial Disclosures about Acquired and Disposed Businesses*," using the assumptions set forth in the notes to the unaudited pro forma condensed combined financial statements. The unaudited pro forma condensed combined financial statements have been adjusted to include estimated Transaction accounting adjustments, accounting policy adjustments, and International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB) (the "IFRS Accounting Standards") to accounting principles generally accepted in the United States of America ("U.S. GAAP") adjustments.

The pro forma adjustments are based upon currently available information and certain assumptions that Alcoa's management believes are reasonable. Assumptions underlying the pro forma adjustments are described in the accompanying notes, which should be read in conjunction with the unaudited pro forma condensed combined financial information. The actual adjustments to Alcoa's audited consolidated financial statements will depend upon a number of factors and additional information that will be available after the consummation of the Transaction. Accordingly, the actual adjustments that will appear in Alcoa's financial statements may differ from these pro forma adjustments. Additionally, Alcoa conducted an initial review of the accounting policies of Alumina Limited, which comply with the IFRS Accounting Standards, to determine material differences in accounting policies or presentation between Alcoa and Alumina Limited that may require recasting or reclassification to conform to Alcoa's accounting policies and presentations. The assessment of differences between the IFRS Accounting Standards and U.S. GAAP is based on Alcoa management's best estimates, which remain subject to change as additional information is available.

The unaudited pro forma condensed combined financial information has been prepared in accordance with the rules and regulations of the SEC. The unaudited pro forma condensed combined financial information is presented for informational purposes only and is not intended to present or be indicative of what the results of operations or financial position would have been had the events actually occurred on the dates indicated, nor is it meant to be indicative of future results of operations or financial position of any future period or as of any future date. Additionally, the unaudited pro forma financial information does not reflect the costs of any integration activities or cost savings or synergies expected to be achieved as a result of the Transaction, which are described in the section entitled "*The Transaction—Alcoa's Reasons for the Transaction*" beginning on page 53 of the Proxy Statement, and, accordingly, does not attempt to predict or suggest future results.

ALCOA CORPORATION
UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS
FOR THE QUARTER ENDED MARCH 31, 2024

(in millions, except per share data)

	Historical Alcoa Corporation U.S. GAAP (USD)	Historical Alumina Limited IFRS[1] (USD)	Alumina Limited IFRS to U.S. GAAP[2] Adjustments[2] (USD)	Transaction Accounting Adjustments[3] (USD)	Note(s)	U.S. GAAP Pro forma Combined (USD)
Sales	$ 2,599	$ —	$ —	$ —		$ 2,599
Cost of goods sold (exclusive of expenses below)	2,404	—	—	—		2,404
Selling, general administrative, and other expenses	60	6	—	—		66
Research and development expenses	11	—	—	—		11
Provision for depreciation, depletion, and amortization	161	—	—	—		161
Restructuring and other charges, net	202	—	—	—		202
Interest expense	27	6	—	—		33
Other expenses (income), net	59	42	6	(48)	(A)	59
Total costs and expenses	2,924	54	6	(48)		2,936
(Loss) income before income taxes	(325)	(54)	(6)	48		(337)
Benefit from income taxes	(18)	—	—	—		(18)
Net (loss) income	(307)	(54)	(6)	48		(319)
Less: Net loss attributable to noncontrolling interest	(55)	—	—	55	(A)	—
Net (loss) income after noncontrolling interest	$ (252)	$ (54)	$ (6)	$ (7)		$ (319)
Earnings per share attributable to common shareholders:						
Basic	$ (1.41)	$ (0.02)				$ (1.24)
Diluted	$ (1.41)	$ (0.02)				$ (1.24)

1 See the historical audited financial statements of Alumina Limited for the years ended December 31, 2023, 2022 and 2021 and condensed interim consolidated financial statements of Alumina Limited for the quarter ended March 31, 2024, filed as Exhibit 99.2 to this Current Report.
2 See Note 3.
3 See Note 5.

See accompanying "Notes to the Unaudited Pro Forma Condensed Combined Financial Information."

ALCOA CORPORATION
UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS
FOR THE YEAR ENDED DECEMBER 31, 2023

(in millions, except per share data)

	Historical Alcoa U.S. GAAP (USD)	Historical Alumina Limited IFRS[1] (USD)	Alumina Limited IFRS to U.S. GAAP Adjustments[2] (USD)	Transaction Accounting Adjustments[3] (USD)	Note(s)	U.S. GAAP Pro forma Combined (USD)
Sales	$ 10,551	$ 1	$ —	$ —		$ 10,552
Cost of goods sold (exclusive of expenses below)	9,813	—	—	—		9,813
Selling, general administrative, and other expenses	226	12	—	—		238
Research and development expenses	39	—	—	—		39
Provision for depreciation, depletion, and amortization	632	—	—	—		632
Restructuring and other charges, net	184	—	—	—		184
Interest expense	107	20	—	—		127
Other expenses (income), net	134	119	8	(127)	(A)	134
Total costs and expenses	11,135	151	8	(127)		11,167
(Loss) income before income taxes	(584)	(150)	(8)	127		(615)
Provision for income taxes	189	—	—	—		189
Net (loss) income	(773)	(150)	(8)	127		(804)
Less: Net (loss) income attributable to noncontrolling interest	(122)	—	—	122	(A)	—
Net (loss) income after noncontrolling interest	$ (651)	$ (150)	$ (8)	$ 5		$ (804)
Earnings per share attributable to common shareholders:						
Basic	$ (3.65)	$ (0.05)				$ (3.13)
Diluted	$ (3.65)	$ (0.05)				$ (3.13)

1 See historical audited financial statements of Alumina Limited for the years ended December 31, 2023, 2022 and 2021 and condensed interim consolidated financial statements of Alumina Limited for the quarter ended March 31, 2024, filed as Exhibit 99.2 to this Current Report.
2 See Note 3.
3 See Note 5.

See accompanying "Notes to the Unaudited Pro Forma Condensed Combined Financial Information."

ALCOA CORPORATION
UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET
AS OF MARCH 31, 2024
(in millions, except per share data)

	Historical Alcoa Corporation U.S. GAAP (USD)	Historical Alumina Limited IFRS[1] (USD)	Alumina Limited IFRS to U.S. GAAP Adjustments[2] (USD)	Transaction Accounting Adjustments[3] (USD)	Note(s)	U.S. GAAP Pro forma Combined (USD)
Assets						
Current assets:						
Cash and cash equivalents	$ 1,358	$ 3	$ —	$ (66)	(B)	$ 1,295
Receivables from customers	869	—	—	—		869
Other receivables	132	—	—	—		132
Inventories	2,048	—	—	—		2,048
Fair value of derivative instruments	22	—	—	—		22
Prepaid expenses and other current assets	452	1	—	—		453
Total current assets	4,881	4	—	(66)		4,819
Properties, plants, and equipment, net	6,577	2	—	—		6,579
Investments	969	1,683	11	(1,694)	(C)	969
Deferred income taxes	295	—	—	100	(F)	395
Fair value of derivative instruments	1	—	—	—		1
Other noncurrent assets	1,605	—	—	—		1,605
Total Assets	$ 14,328	$ 1,689	$ 11	$ (1,660)		$ 14,368
Liabilities						
Current liabilities:						
Accounts payable, trade	$ 1,586	$ 2	$ —	$ —		$ 1,588
Accrued compensation and retirement costs	331	—	—	—		331
Taxes, including income taxes	94	—	—	—		94
Fair value of derivative instruments	205	—	—	—		205
Other current liabilities	746	1	—	—		747
Long-term debt due within one year	79	—	—	363	(E)	442
Total current liabilities	3,041	3	—	363		3,407
Long-term debt, less amount due within one year	2,469	363	—	(363)	(E)	2,469
Accrued pension benefits	267	—	—	—		267
Accrued other postretirement benefits	437	—	—	—		437
Asset retirement obligations	718	—	—	—		718
Environmental remediation	197	—	—	—		197
Fair value of derivative instruments	925	—	—	—		925
Noncurrent income taxes	134	—	—	—		134
Other noncurrent liabilities and deferred credits	606	2	—	—		608
Total liabilities	8,794	368	—	—		9,162
Contingencies and commitments						
Equity						
Shareholders' equity:						
Common stock	2	—	—	1	(D)	3
Preferred stock	—	—	—	—	(D)	—
Additional capital	9,184	2,707	—	(423)	(B),(C),(D),(F)	11,468
Accumulated (deficit) earnings	(1,564)	74	11	(121)	(B),(C)	(1,600)
Accumulated other comprehensive loss	(3,628)	(1,460)	—	423	(C)	(4,665)
Total shareholders' equity	3,994	1,321	11	(120)		5,206
Noncontrolling interest	1,540	—	—	(1,540)	(C)	—
Total equity	5,534	1,321	11	(1,660)		5,206
Total Liabilities and Equity	$ 14,328	$ 1,689	$ 11	$ (1,660)		$ 14,368

1 See historical audited financial statements of Alumina Limited for the years ended December 31, 2023, 2022 and 2021 and condensed interim consolidated financial statements of Alumina Limited for the quarter ended March 31, 2024, filed as Exhibit 99.2 to this Current Report.
2 See Note 3.
3 See Note 6.

See accompanying "Notes to the Unaudited Pro Forma Condensed Combined Financial Information."

NOTES TO THE UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

NOTE 1—BASIS OF PRESENTATION

The unaudited pro forma condensed combined financial information was prepared in accordance with Article 11 of SEC Regulation S-X, as amended by the final rule, Release No. 33-10786 "*Amendments to Financial Disclosures about Acquired and Disposed Businesses*." Both Alcoa and Alumina Limited prepare their consolidated financial statements on the basis of the fiscal year ended December 31, 2023. The unaudited pro forma condensed combined financial information was prepared using:

- the historical unaudited consolidated statements of operations of Alcoa and Alumina Limited for the quarter ended March 31, 2024;
- the historical audited consolidated statements of operations of Alcoa and Alumina Limited for the year ended December 31, 2023; and
- the historical unaudited consolidated balance sheets for Alcoa and Alumina Limited as of March 31, 2024.

The Transaction accounting adjustments included in the unaudited pro forma condensed combined financial information are preliminary, have been made solely for the purpose of preparing these statements and are subject to revision.

NOTE 2—RECLASSIFICATIONS

Alcoa's management performed an initial review of the accounting policies of Alumina Limited to determine if differences in accounting policies require reclassification or adjustment and did not identify any material difference in accounting policy.

The following reclassifications were made to Alumina Limited's historical statement of operations to conform to Alcoa's historical presentation:

Statement of Operations for the quarter ended March 31, 2024

Amount (in $M USD)	Presentation in Alumina's Historical Financial Statements	Presentation in Unaudited Pro Forma Condensed Combined Financial Information
$ 6	General and administrative expenses	Selling, general administrative and other expenses
$ 6	Finance costs	Interest expense
$ 42	Share of net profit (loss) of associates accounted for using the equity method	Other expenses (income), net

Statement of Operations for the year ended December 31, 2023

Amount (in $M USD)	Presentation in Alumina's Historical Financial Statements	Presentation in Unaudited Pro Forma Condensed Combined Financial Information
$ 1	Income from related parties	Sales
$ 12	General and administrative expenses	Selling, general administrative, and other expenses
$ 20	Finance costs	Interest expense
$ 119	Share of net profit (loss) of associates accounted for using the equity method	Other expenses (income), net

Balance Sheet as of March 31, 2024

Amount (in $M USD)	Presentation in Alumina's Historical Financial Statements	Presentation in Unaudited Pro Forma Condensed Combined Financial Information
$ 2	Right of use asset	Properties, plants, and equipment, net
$ 1	Provisions and other liabilities (current)	Other current liabilities
$ 1	Lease liability	Other noncurrent liabilities and deferred credits
$ 1	Provisions and other liabilities (noncurrent)	Other noncurrent liabilities and deferred credits
$ 2,707	Contributed equity	Additional capital
$ (1,527)	Foreign currency translation reserve	Accumulated other comprehensive loss
$ 67	Other reserves	Accumulated other comprehensive loss
$ 74	Retained earnings	Accumulated (deficit) earnings

NOTE 3—IFRS ACCOUNTING STANDARDS TO U.S. GAAP ADJUSTMENTS

Alumina Limited reports their financial statements under the IFRS Accounting Standards, which differs in certain material respects from U.S. GAAP. The following adjustments have been made to Alumina Limited's carrying value of "Investment in associates" in Alumina Limited's balance sheet and "Share of net profit (loss) of associate accounted for using the equity method" for purposes of the pro forma presentation in the IFRS Accounting Standards to U.S. GAAP adjustments column.

Asset retirement obligations

Under the IFRS Accounting Standards, asset retirement obligations ("AROs") are recorded for dismantling, removal and restoration of certain refineries when a constructive obligation exists. Under U.S. GAAP, these AROs are recorded upon management's decision to permanently close and demolish certain structures.

Additionally, the IFRS Accounting Standards requires remeasurement of ARO liabilities using current market discount rates. Under U.S. GAAP, AROs are measured using the discount rate that existed when the liability, or relevant portion, was initially recorded.

Gas transmission rights

As part of a previous sale transaction of an equity investment, AWAC maintained access to transmission capacity for gas supply to certain of its refineries. Under the IFRS Accounting Standards, the gas transmission rights are recognized as a deferred asset and liability at inception, net of deferred taxes. The deferred asset is then amortized over the useful life of the contract and the liability is subsequently revalued to current market pricing less any payments made for consumption. Under U.S. GAAP, gas transmission rights are not required to be recognized.

Properties, plants, and equipment, net

Under U.S. GAAP, the functional currency of AWAC's operations in Brazil was the U.S. dollar while the currency was hyperinflationary, while under the IFRS Accounting Standards the functional currency remained the Brazilian real. As a result, the U.S. GAAP basis for properties, plants and equipment is higher than the IFRS Accounting Standards basis. Accordingly, depreciation is higher under U.S. GAAP than the IFRS Accounting Standards.

Mining rights intangibles

Upon the adoption of the IFRS Accounting Standards in 2004, Alumina Limited recognized intangible assets related to mineral rights for bauxite mining, which were amortized over the applicable period. Under U.S. GAAP, intangible assets related to mineral rights are not required to be recognized.

Retirement benefit obligations

Under the IFRS Accounting Standards, gains and losses related to defined benefit plans are recognized immediately in accumulated other comprehensive loss and are not subsequently recorded within profit or loss. Under U.S. GAAP gains and losses related to defined benefit plans are deferred in accumulated other comprehensive income until amortized into earnings. The actuarial assumptions also differ.

When Alcoa's management completes a final review of Alumina Limited's accounting policies, additional differences may be identified that, when conformed, could differ from the unaudited pro forma condensed combined financial information contained herein.

NOTE 4—PURCHASE CONSIDERATION AND ALLOCATION

Purchase Consideration

Based on Alcoa's closing share price as of July 26, 2024, the exchange ratio of 0.02854 implies a value of A$1.45 per Alumina Share and purchase consideration of approximately $2.8 billion. The purchase consideration is as follows:

Alumina Limited common shares (excluding shares held by the CITIC Participant eligible for preferred stock conversion)	2,760,056,014[1]	
Alumina Limited common shares held by the CITIC Participant eligible for preferred stock conversion	141,625,403[2]	
Total Alumina Limited common shares outstanding	2,901,681,417[3]	
Exchange ratio	0.02854	
Alcoa common stock issued in exchange	78,772,422	
Alcoa non-voting preferred stock issued in exchange	4,041,989	
Total Alcoa stock issued in exchange	82,814,411	
Alcoa closing share price		$ 33.43 [4]
Purchase consideration at closing (in USD millions)		$ 2,768 [5]

(1) Alumina Limited shareholders received Alcoa stock at an exchange ratio of 0.02854.
(2) Certain Alumina Shares owned by the CITIC Participant received shares of Alcoa non-voting preferred stock at the exchange ratio of 0.02854.
(3) Represents the number of Alumina Shares issued and outstanding as of July 26, 2024.
(4) Represents the closing price of Alcoa common stock on the New York Stock Exchange on July 26, 2024.
(5) The final purchase consideration will be based on the closing price of Alcoa common stock on August 1, 2024, which could differ materially from the Alcoa common stock price used to estimate the purchase consideration.

Accounting Treatment

The Transaction consists in substance of the acquisition of Alumina Limited's noncontrolling interest in AWAC, the assumption of indebtedness and the recognition of deferred tax assets related to Alumina Limited's net operating loss carryforwards (see Note 5, (F) below). The Transaction will be accounted for as an equity transaction under U.S. GAAP in accordance with ASC 810. The financial condition and results of operations of Alcoa after closing of the Scheme will include the financial condition and results of operations of Alumina Limited.

The following table sets forth the allocation of the total purchase consideration to the identifiable assets acquired and liabilities assumed, based on Alumina Limited's balance sheet on March 31, 2024:

	Amount (in millions) (USD)
Purchase consideration	**$ 2,768**
Cash and cash equivalents	3
Prepaid expenses and other current assets	1
Deferred income taxes	100
Properties, plants, and equipment, net	2
Total assets	**106**
Accounts payable, trade	2
Other current liabilities	1
Long-term debt due within one year	363
Other noncurrent liabilities and deferred credits	2
Total liabilities	**368**
Noncontrolling interest	**1,540**
Net assets acquired	**1,278**
Additional capital	**$ 1,490**

NOTE 5—ADJUSTMENTS TO THE UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS

(A) The adjustment represents the elimination of Alumina Limited's equity earnings of $42 million and $119 million for the quarter ended March 31, 2024 and year ended December 31, 2023, respectively, and the elimination of the corresponding IFRS Accounting Standards to U.S. GAAP adjustment of $6 million and $8 million for the quarter ended March 31, 2024 and year ended December 31, 2023, respectively, as described in Note 3. Additionally, the adjustment represents the elimination of Alcoa's noncontrolling interest of $55 million and $122 million for the quarter ended March 31, 2024 and year ended December 31, 2023, respectively.

NOTE 6—ADJUSTMENTS TO THE UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET AS OF MARCH 31, 2024

(B) Additional capital includes a decrease of $30 million to reflect the impact of Alcoa's estimated transaction costs not yet incurred, with an offset to Cash. Accumulated (deficit) earnings includes a decrease of $30 million to reflect the impact of Alumina Limited's transaction costs not yet incurred by Alumina Limited, and the cash settlement of obligations under Alumina Limited's Employee Share Plan, and $6 million for other one-time charges not yet incurred by Alcoa, with an offset to Cash.

(C) The adjustment reflects the elimination of Alumina Limited's investment of $1,683 million and the IFRS Accounting Standards to U.S. GAAP adjustment of $11 million as described in Note 3. Additionally, the adjustment reflects the elimination of Alumina Limited's Additional capital of $2,707 million, Alumina Limited's Accumulated earnings of $44 million (after the $30 million adjustment above) and the IFRS Accounting Standards to U.S. GAAP adjustment of $11 million, and Alumina Limited's Accumulated other comprehensive loss of $1,460 million. Additional capital also reflects an adjustment of $362 million to reflect Alcoa's acquisition of Alumina Limited's remaining assets and liabilities (primarily long-term debt of $363 million). This adjustment also eliminates Alcoa's Noncontrolling interest of $1,540 million and Other comprehensive loss of $1,037 million allocated to Noncontrolling interest, with an offset to Additional capital.

(D) The adjustment to Common stock and Preferred stock represents the issuance of 78,772,422 Alcoa common shares at $0.01 par value and the issuance of 4,041,989 preferred non-voting shares at $0.01 par value, respectively, with an offset to Additional Capital.

(E) Alumina Limited's revolving credit facility contains a clause that allows the majority lenders to call the outstanding indebtedness upon a change of control if Alumina Limited does not elect the option to prepay all outstanding loans and any other accrued amounts (including interest) in connection with such change of control. This adjustment reflects the reclassification from Long-term debt, less amount due within one year to Long-term debt, due within one year as a result of this change of control clause. Other than the principal and interest, no other material fees are expected with this repayment.

(F) Alcoa Australia Holdings Pty Ltd ("AAH"), a wholly-owned indirect subsidiary of Alcoa, made an election prior to July 31, 2024 that results in Alcoa's other wholly-owned Australian subsidiaries joining AAH's tax consolidated group (the "AAH Tax Consolidated Group"). As a result of the Transaction, Alumina Limited and all of its Australian subsidiaries, as well as Alcoa of Australia Limited and all of its subsidiaries, joined the AAH Tax Consolidated Group on August 1, 2024. This adjustment reflects a deferred tax asset of $100 million related to the portion of Alumina Limited's Australian net operating loss carryforwards that Alcoa has determined are more likely than not to be realized as a result of the consolidated return election.

NOTE 7—EARNINGS PER SHARE

The unaudited pro forma condensed combined basic and diluted earnings per share calculations are based on the condensed combined basic and diluted average shares of Alcoa and Alumina Limited.

The pro forma basic and diluted weighted average shares outstanding are a combination of historical Alcoa common stock and the Alcoa common stock issued as part of the Transaction at an exchange ratio of 0.02854 shares of Alcoa common stock for each Alumina Share outstanding. Certain Alumina Shares owned by a certain CITIC Participant will receive, in lieu of the Alcoa common stock, 0.02854 shares of New Alcoa Preferred Stock.

Pro Forma Weighted Average Shares	Quarter Ended March 31, 2024	Year Ended December 31, 2023
Basic weighted average number of common shares outstanding-historical	179,285,359	178,311,096
Common stock issued as part of the Transaction	78,772,422	78,772,422
Pro forma weighted average number of common shares - Basic	258,057,781	257,083,518
Preferred stock issued as part of the Transaction	4,041,989	4,041,989
Diluted weighted average number of common shares outstanding-historical	179,285,359	178,311,096
Common stock issued as part of the Transaction	78,772,422	78,772,422
Pro forma weighted average number of common shares - Diluted	258,057,781	257,083,518
Preferred stock issued as part of the Transaction	4,041,989	4,041,989

Pro Forma Weighted Average Shares	Quarter Ended March 31, 2024	Year Ended December 31, 2023
Pro Forma Earnings per Share		
Pro forma net loss attributable to common shareholders (in USD millions)	$ (319)	$ (804)
Basic - pro forma	$ (1.24)	$ (3.13)
Diluted - pro forma	$ (1.24)	$ (3.13)