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

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**FORM 8-K**

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**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 24, 2014

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**CENTERPOINT ENERGY, INC.**  
(Exact name of registrant as specified in its charter)

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Texas  
(State or other jurisdiction  
of incorporation)

1-31447  
(Commission  
File Number)

74-0694415  
(IRS Employer  
Identification No.)

1111 Louisiana  
Houston, Texas  
(Address of principal executive offices)

77002  
(Zip Code)

Registrant's telephone number, including area code: (713) 207-1111

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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 (see General Instruction A.2. below):

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

### *Amended and Restated Bylaws*

On July 24, 2014, the board of directors (the “Board”) of CenterPoint Energy, Inc. (the “Company”) approved an amendment and restatement of the Amended and Restated Bylaws of the Company (as amended and restated, the “Bylaws”). As summarized below, the Bylaws provide for, among other things, advance notice provisions for shareholder proposals and Board nominations at annual and special meetings of shareholders.

*Information Required for Special Meetings Called by Shareholders.* Shareholders calling a special meeting are required to submit a request setting forth in writing, as to each holder and each matter proposed to be brought before the special meeting, the following, among other things, (i) a description of the proposal and the reasons for conducting such business at the meeting, together with the text of the proposal or business (including the text of any resolution proposed for consideration), (ii) the name and address of the shareholder proposing such business, of the beneficial owner, if any, on whose behalf the proposal is made and of any other shareholders known by such shareholder to be supporting such proposal, (iii) certain interests and relationships of the shareholder and beneficial owner, if any, in or with the Company, including all forms of ownership interests, (iv) a description of all agreements and understandings between the shareholder, the beneficial owner, if any, and any other person in connection with such proposal and any financial interest or other material interests of the shareholder and beneficial owner, if any, in the proposal and (v) a representation that the shareholder intends to appear in person or by proxy at the special meeting. The information required in the notice must be updated at various times as provided in the Bylaws.

*Advance Notice of Shareholder Proposals Other than Director Nominees.* The Bylaws set forth the procedures for presenting a shareholder proposal, other than the nomination of directors, at an annual meeting of the shareholders. For shareholder proposals to be properly brought before an annual meeting, the proposal must comply with the advance notice procedures described below. To be timely, such shareholder’s notice generally must be delivered to the principal executive offices of the Company not less than 90 nor more than 180 days prior to the first anniversary of the previous annual meeting.

The notice must set forth as to each matter proposed to be brought before the annual meeting (i) a description of the proposal and the reasons for conducting such business at the meeting, together with the text of the proposal or business (including the text of any resolution proposed for consideration), (ii) the name and address of the shareholder proposing such business, of the beneficial owner, if any, on whose behalf the proposal is made and of any other shareholders known by such shareholder to be supporting such proposal, (iii) certain interests and relationships of the shareholder and beneficial owner, if any, in or with the Company, including all forms of ownership interests, (iv) a description of all agreements and understandings between the shareholder, the beneficial owner, if any, and any other person in connection with such proposal and any financial interest or other material interest of the shareholder and beneficial owner, if any, in the proposal and (v) a representation that the shareholder intends to appear in person or by proxy at the meeting. In addition to the information required above, proposals to remove a director or amend the Bylaws require an opinion of counsel regarding compliance with law and the organizational documents of the Company and, in the case of a proposal to remove a director, a statement of the grounds, if any, on which such director is proposed to be removed. The information required in the notice must be updated at various times as provided in the Bylaws.

*Advance Notice of Shareholder Proposals for Director Nominees.* The Bylaws set forth the procedures for shareholder nominations in director elections. For shareholder nominations to be properly brought before an annual meeting or a special meeting at which directors are to be elected, the proposal must comply with the advance notice procedures described below. To be timely with respect to an annual meeting, such shareholder’s notice generally must be delivered to the principal executive offices of the Company not less than 90 nor more than 180 days prior to the first anniversary of the previous annual meeting. To be timely with respect to a special meeting, such shareholder’s notice generally must be delivered to the principal executive offices of the Company not less than 40 nor more than 60 days prior to the date of such meeting.

In each case, the notice must set forth, among other things, (i) each proposed nominee's name, age, business address and residence address, (ii) the principal occupation or employment of such person, (iii) certain interests and relationships of the proposed nominee in or with the Company, including all forms of ownership interests, (iv) the written consent of such person to having such person's name placed in nomination at the meeting and to serve as a director if elected, (v) any other information that would be required to be disclosed in a proxy statement or other filing in accordance with the Section 14 of the Securities Exchange Act 1934 (the "Exchange Act"), (vi) a notarized affidavit to the effect that, if elected as a member of the Board of Directors of the Company, such person is eligible for election and will serve, (vii) a description of all direct and indirect compensation and other material monetary relationships during the past three years, and any other material relationships, between the shareholder, the beneficial owner, if any, on whose behalf the nomination is made, each proposed nominee and such proposed nominee's affiliates or associates and (viii) any agreements and information with respect to such proposed nominee that are required pursuant to the procedures established by the Board relating to majority voting for the election of directors. The notice must also set forth (i) the name and address of the shareholder, of the beneficial owner, if any, on whose behalf the nomination is made and of any other shareholders known by such shareholder to be supporting such nomination, (ii) certain interests and relationships of the shareholder and beneficial owner, if any, in or with the Company, including all forms of ownership interests, (iii) a description of all agreements and understandings between the shareholder, the beneficial owner, if any, and any other person in connection with such nomination, (iv) a representation that the shareholder intends to appear in person or by proxy at the meeting and (v) any other information relating to such shareholder and beneficial owner, if any, that would be required to be disclosed in a proxy statement or other filing in accordance with the Section 14 of the Exchange Act. The information required in the notice must be updated at various times as provided in the Bylaws.

The Bylaws also require that director nominees complete a written questionnaire in a form provided by the Company and make certain representations to the Company relating to voting commitments, compensation and other economic arrangements and future compliance with the Company's corporate governance and other policies and guidelines applicable to directors.

*Other Provisions.* The Bylaws make various procedural and other changes, including the deletion of obsolete provisions.

The summary description of the Bylaws set forth above does not purport to be complete and is qualified in its entirety by reference to the full text of the Bylaws, filed as Exhibit 3.1 to this Current Report on Form 8-K.

#### **Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<u>EXHIBIT NUMBER</u>	<u>EXHIBIT DESCRIPTION</u>
3.1	Amended and Restated Bylaws.

SIGNATURE

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.

CENTERPOINT ENERGY, INC.

Date: July 30, 2014

By: /s/ Dana C. O'Brien

Dana C. O'Brien

Senior Vice President, General Counsel and Corporate Secretary

EXHIBIT INDEX

EXHIBIT  
NUMBER

EXHIBIT DESCRIPTION

3.1

Amended and Restated Bylaws.

## AMENDED AND RESTATED BYLAWS

OF

CENTERPOINT ENERGY, INC.

(Adopted and Amended by Resolution of the Board of Directors on July 24, 2014)

## ARTICLE I

## CAPITAL STOCK

**Section 1. Share Ownership.** Shares for the capital stock of CenterPoint Energy, Inc. (the “Company”) may be certificated or uncertificated. Owners of shares of the capital stock of the Company shall be recorded in the share transfer records of the Company and ownership of such shares shall be evidenced by a certificate or book entry notation in the share transfer records of the Company. Any certificates representing such shares shall be signed by the Chief Executive Officer, the President, a Vice President or another officer designated by the Board of Directors and either the Secretary or an Assistant Secretary and shall be sealed with the seal of the Company, which signatures and seal may be facsimiles. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Company with the same effect as if he were such officer at the date of its issuance.

**Section 2. Shareholders of Record.** The Board of Directors of the Company may appoint one or more transfer agents or registrars of any class of stock of the Company. The Company may be its own transfer agent if so appointed by the Board of Directors. The Company shall be entitled to treat the holder of record of any shares of the Company as the owner thereof for all purposes, and shall not be bound to recognize any equitable or other claim to, or interest in, such shares or any rights deriving from such shares, on the part of any other person, including (but without limitation) a purchaser, assignee or transferee, unless and until such other person becomes the holder of record of such shares, whether or not the Company shall have either actual or constructive notice of the interest of such other person. When used in these Bylaws, “person” has the meaning ascribed to such term in Section 2(a)(2) of the Securities Act of 1933, as amended, as the context may require.

**Section 3. Transfer of Shares.** The shares of the capital stock of the Company shall be transferable in the share transfer records of the Company by the holder of record thereof, or his duly authorized attorney or legal representative. All certificates representing shares surrendered for transfer, properly endorsed, shall be canceled and new certificates for a like number of shares shall be issued therefor. In the case of lost, stolen, destroyed or mutilated certificates representing shares for which the Company has been requested to issue new certificates, new certificates or other evidence of such new shares may be issued upon such conditions as may be required by the Board of Directors or the Secretary for the protection of the Company and any transfer agent or registrar. Uncertificated shares shall be transferred in the share transfer records of the Company upon the written instruction originated by the appropriate person to transfer the shares.

**Section 4. Shareholders of Record and Fixing of Record Date.** For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive a distribution by the Company (other than a distribution involving a purchase or redemption by the Company of any of its own shares) or a share dividend, or in order to make a determination of shareholders for any other proper purpose (other than determining shareholders entitled to consent to action by shareholders proposed to be taken without a meeting of shareholders), the Board of Directors may provide that the share transfer records shall be closed for a stated period of not more than 60 days, and in the case of a meeting of shareholders not less than ten days, immediately preceding the meeting, or it may fix in advance a record date for any such determination of shareholders, such date to be not more than 60 days, and in the case of a meeting of shareholders not less than ten days, prior to the date on which the particular action requiring such determination of shareholders is to be taken. If the share transfer records are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive a distribution (other than a distribution involving a purchase or redemption by the Company of any of its own shares) or a share dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the Board of Directors declaring such distribution or share dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as herein provided, such determination shall apply to any adjournment thereof except where the determination has been made through the closing of the share transfer records and the stated period of closing has expired.

## ARTICLE II

### MEETINGS OF SHAREHOLDERS

**Section 1. Place of Meetings.** All meetings of shareholders shall be held at the registered office of the Company, in the City of Houston, Texas, or at such other place within or without the State of Texas as may be designated by the Board of Directors or officer calling the meeting.

**Section 2. Annual Meeting.** The annual meeting of the shareholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors or as may otherwise be stated in the notice of the meeting. Failure to designate a time for the annual meeting or to hold the annual meeting at the designated time shall not work a winding up or termination of the Company.

**Section 3. Special Meetings.** Special meetings of the shareholders may be called by the Chairman of the Board, the Chief Executive Officer, the President, the Secretary or the Board of Directors. Special meetings of shareholders shall be called by the President or the Secretary of the Company on the written request in proper form of the holders of shares of capital stock of the Company constituting at least the percentage of outstanding shares of capital stock of the Company entitled to vote at such meeting that the Articles of Incorporation (as Section 4 of this Article II defines that term) specify as the minimum percentage necessary to call a special meeting of the shareholders (or in the absence of such specification, the minimum percentage necessary to call a special meeting that the Texas Business Organizations Code, as amended (the

“TBOC”), specifies). To be in proper written form, such request by the requisite holders shall set forth as to each such holder and each matter proposed (a) a description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, together with the text of any proposal in connection therewith (including the text of any resolution proposed for consideration), (b) the name and address of the shareholder proposing such business, as they appear on the Company’s books and records, of the beneficial owner, if any, on whose behalf the proposal is made, and of any other shareholders known by such shareholder to be supporting such business, (c) any Disclosable Interest of such shareholder and such beneficial owner, if any, (d) a description of all arrangements, agreements or understandings between such shareholder and beneficial owner, if any, and between either or both of them and any other person or persons (including their names) in connection with the proposal of such business by such shareholder and any financial interest or other material interest of such shareholder and beneficial owner, if any, in such business or proposal and (e) a representation that such shareholder intends to appear in person or by proxy at such meeting to bring such business before the meeting. A shareholder providing a request for or notice of business proposed to be brought before a meeting shall further update and supplement such request or notice, if necessary, so that the information provided or required to be provided in such request or notice shall be true and correct as of the record date for the meeting and as of the date that is ten business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received at, the principal executive offices of the Company not later than five 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 business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date 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 business days prior to the meeting or any adjournment or postponement thereof). In addition, a shareholder providing a request for or notice of business proposed to be brought before a meeting shall update and supplement such request or notice, and deliver such update and supplement to the principal executive offices of the Company, promptly following the occurrence of any event that materially changes the information provided or required to be provided in such request or notice. The items required by paragraphs (a) through (e) of this Section 3, together with the updates and supplements thereto required by the two immediately preceding sentences and the applicable times for such updates and supplements, are referred to herein as the “Shareholder Information.” Upon receipt of such request and any related notice required by these Bylaws in proper form and in accordance with this Section 3, the Board of Directors shall set a date for the special meeting, shall set a record date in accordance with Section 4 of Article I, and shall cause an appropriate officer of the Company to give the notice required under Section 4 of this Article II. Notwithstanding anything herein to the contrary, the President or Secretary shall not be required to call a special meeting pursuant to this Section 3 except in accordance with this Section 3. If the Board of Directors shall determine that any request to call and hold a special meeting was not properly made in accordance with this Section 3, or shall determine that the shareholder or shareholders submitting a request to call the special meeting have not otherwise complied with this Section 3, then neither the President nor the Secretary shall be required to call the special meeting, and the Board of Directors shall not be required to set a date or a record date for the meeting or cause the notice thereof to be given.



This Section 3 shall be subject to the rights, if any, of holders of any class or series of capital stock of the Company to call special meetings.

Nothing in these Bylaws shall be interpreted or construed to require the inclusion of information about any proposal in any proxy statement distributed by, at the direction of, or on behalf of the Board of Directors or the Company.

In addition to the foregoing provisions of this Section 3, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 3.

For the purposes of these Bylaws:

“Beneficial Ownership” shall be determined in accordance with Rule 13d-3 under the Exchange Act.

“Derivative Instrument” means any option, warrant, convertible security, stock appreciation right or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of capital stock of the Company or with a value derived in whole or in part from the price, value or volatility of any class or series of shares of capital stock of the Company, any “call equivalent position” or “put equivalent position” (as such terms are defined in Rule 16a-1 under the Exchange Act) that is, directly or indirectly, held or maintained by such shareholder, beneficial owner, if any, and nominee, if any, with respect to any shares of any class or series of capital stock of the Company (including any security or instrument that would not otherwise constitute a derivative security for purposes of such definitions 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 any other derivative or synthetic arrangement having characteristics of a long position in, or a short position with respect to, any class or series of shares of capital stock of the Company, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Company or otherwise.

“Disclosable Interest” with respect to a person means (A)(1) the class or series and number of shares of capital stock of the Company that are, directly or indirectly, owned beneficially and of record by such person (for purposes of Sections 3 and 9 of Article II, Sections 2 and 8 of Article III and Section 2 of Article VII, a person shall in all events be deemed to beneficially own any shares of any class or series of capital stock of the Company as to which such person has a right to acquire beneficial ownership at any time in the future), (2) any Derivative Instrument directly or indirectly owned beneficially by such person and 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 capital stock of the Company, (3) any proxy, contract, arrangement, understanding or relationship the effect

or intent of which is to increase or decrease the voting power of such person with respect to any shares of any security of the Company, (4) any pledge by such person of any security of the Company or any short interest of such person in any security of the Company (for purposes of Sections 3 and 9 of Article II, Sections 2 and 8 of Article III and Section 2 of Article VII, a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (5) any rights to dividends on the shares of capital stock of the Company owned beneficially by such person that are separated or separable from the underlying shares of capital stock of the Company, (6) any proportionate interest in shares of capital stock of the Company or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (7) any performance-related fees (other than an asset-based fee) that such person is entitled to based on any increase or decrease in the value of shares of capital stock of the Company or Derivative Instruments, if any, as of the date of such notice, including, without limitation, for purposes of clauses (A)(1) through (A)(7) above, any of the foregoing held by members of such person's immediate family sharing the same household, (B) any material pending or threatened legal proceeding in which such person is a party or material participant involving the Company or any of its officers or directors, or any affiliate of the Company, (C) any other material relationship between such person, on the one hand, and the Company, any affiliate of the Company or any person engaged in a business substantially similar to one or more of the Company's principal businesses, on the other hand, (D) any direct or indirect material interest in any material contract or agreement of such person with the Company, any affiliate of the Company or any person engaged in a business substantially similar to one or more of the Company's principal businesses (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement) and (E) any other information relating to such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies for the proposal or the election of directors in a contested election, as applicable, or would otherwise be required, in each case pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder.

**Section 4. Notice of Meeting.** Written or printed notice of all meetings stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called (which may include, in the case of any special meeting called at the written request of shareholders pursuant to the provisions of Section 3 of this Article II, any purpose or purposes (in addition to the purpose or purposes stated by the requesting shareholders pursuant to Section 3 of this Article II) as the Board of Directors may determine), shall be delivered not less than ten nor more than 60 days before the date of the meeting, either personally or by mail, by or at the direction of the Chairman of the Board, the Chief Executive Officer, the President, the Secretary or the officer or person calling the meeting to each share-holder of record entitled to vote at such meetings. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the share transfer records of the Company, with postage thereon prepaid. Any notice required to be given to any shareholder, under any provision of the TBOC, the Articles of

Incorporation of the Company (as amended from time to time and including each statement respecting any class or series of preferred stock of the Company which has been filed by the Company in accordance with the provisions of Article 2.13 of the Texas Business Corporation Act, Section 21.156 of the TBOC, or any successor provisions, the "Articles of Incorporation") or these Bylaws, need not be given to a shareholder if notice of two consecutive annual meetings and notice of any meeting held during the period between those annual meetings, if any, or all (but in no event less than two) payments (if sent by first class mail) of distributions or interest on securities during a 12-month period have been mailed to that person, addressed at his address as shown on the share transfer records of the Company, and have been returned undeliverable, or if otherwise permitted by the TBOC. Any action or meeting taken or held without notice to such person shall have the same force and effect as if the notice had been duly given. If such a person delivers to the Company a written notice setting forth his then current address, the requirement that notice be given to that person shall be reinstated.

**Section 5. Voting List.** The officer or agent having charge of the share transfer records for shares of the Company shall make, not later than the 11th day before each meeting of shareholders, a complete list of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of each shareholder, the type of shares and the number of shares held by each and the number of votes that each shareholder is entitled to (if the number of votes is different than the number of shares held), which list, for a period of ten days prior to such meeting, shall be kept on file at the registered office or principal executive office of the Company and shall be subject to inspection by any shareholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original share transfer records shall be prima facie evidence as to who are the shareholders entitled to examine such list or to vote at any meeting of shareholders. Failure to comply with any requirements of this Section 5 shall not affect the validity of any action taken at such meeting.

**Section 6. Voting; Proxies.** Except as otherwise provided in the Articles of Incorporation or as otherwise provided in the TBOC, each holder of shares of capital stock of the Company entitled to vote shall be entitled to one vote for each share standing in his name on the records of the Company, either in person or by proxy executed in writing by him or by his duly authorized attorney-in-fact. A proxy shall be revocable unless expressly provided therein to be irrevocable and the proxy is coupled with an interest. At each election of directors, every holder of shares of the Company entitled to vote shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected, and for whose election he has a right to vote, but in no event shall he be permitted to cumulate his votes for one or more directors. Any form of electronic transmission by the shareholder, or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by the shareholder, is considered an execution in writing for purposes of this Section 6. To the extent required by applicable law, any electronic transmission must contain or be accompanied by information from which it can be determined that the transmission was authorized by the shareholder.

**Section 7. Quorum and Vote of Shareholders.** Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, the holders of a majority of shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but, if a quorum is not represented, a majority in interest of those represented may adjourn the meeting from time to time. Except as provided in the next sentence with respect to contested elections of directors, directors to be elected by shareholders shall be elected by a majority of the votes cast by the holders of shares entitled to vote in the election of directors at a meeting of shareholders at which a quorum is present. In a contested election of directors, directors shall be elected by a plurality of the votes cast by the holders of shares entitled to vote in the election of directors at a meeting of shareholders at which a quorum is present. For purposes of this Section, (i) an election of directors shall be considered contested if, as of the date that is 14 days in advance of the date the Company files its definitive proxy statement (regardless of whether or not thereafter revised or supplemented) with the Securities and Exchange Commission, the number of nominees exceeds the number of directors to be elected and (ii) a majority of the votes cast means that the number of shares voted “for” a director must exceed the number of votes cast “against” that director. The Board and the Governance Committee shall establish procedures with respect to the resignation from the Board of continuing directors who are not elected. With respect to each matter other than the election of directors as to which no other voting requirement is specified by law, the Articles of Incorporation or in this Section 7 or in Article VII of these Bylaws, the affirmative vote of the holders of a majority of the shares entitled to vote on that matter and represented in person or by proxy at a meeting at which a quorum is present shall be the act of the shareholders. With respect to a matter submitted to a vote of the shareholders as to which a shareholder approval requirement is applicable under the shareholder approval policy of the New York Stock Exchange, Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or any provision of the Internal Revenue Code, in each case for which no higher voting requirement is specified by law, the Articles of Incorporation or these Bylaws, the affirmative vote of the holders of a majority of the shares entitled to vote on, and voted “for” or “against,” that matter at a meeting at which a quorum is present shall be the act of the shareholders, provided that approval of such matter shall also be conditioned on any more restrictive requirement of such shareholder approval policy, Rule 16b-3 or Internal Revenue Code provision, as applicable, being satisfied. With respect to the approval of independent public accountants (if submitted for a vote of the shareholders) or the approval of any matter recommended to the shareholders by the Board of Directors with respect to the compensation of executives, including any advisory vote regarding executive compensation, the affirmative vote of the holders of a majority of the shares entitled to vote on, and voted “for” or “against,” that matter at a meeting of shareholders at which a quorum is present shall be the act of the shareholders.

**Section 8. Presiding Officer and Conduct of Meetings.** The Chairman of the Board, or in his absence or at his direction, the Chief Executive Officer, or in his absence, the President shall preside at all meetings of the shareholders or, if such officers are not present at a meeting, by such other person as the Board of Directors shall designate or if no such person is designated by the Board of Directors, the most senior officer of the Company present at the meeting. The Secretary of the Company, if present, shall act as secretary of each meeting of shareholders; if he is not present at a meeting, then such person as may be designated by the presiding officer shall act as secretary of the meeting. Meetings of shareholders shall follow reasonable and fair procedure. Subject to the foregoing, the conduct of any meeting of shareholders and the determination of procedure and rules shall be within the absolute discretion of the officer presiding at such meeting (the “Chairman of the Meeting”), and there shall be no appeal from

any ruling of the Chairman of the Meeting with respect to procedure or rules. Accordingly, in any meeting of shareholders or part thereof, the Chairman of the Meeting shall have the sole power to determine appropriate rules or to dispense with theretofore prevailing rules. Without limiting the foregoing, the following rules shall apply:

(a) If disorder should arise which prevents continuation of the legitimate business of meeting, the Chairman of the Meeting may announce the adjournment of the meeting; and upon so doing, the meeting shall be immediately adjourned.

(b) The Chairman of the Meeting may ask or require that anyone not a bona fide shareholder or proxy leave the meeting.

(c) A resolution or motion proposed by a shareholder shall only be considered for vote of the shareholders if it meets the criteria of Article II, Section 9 (Proper Business Annual Meeting of Shareholders) or Article II, Section 10 (Proper Business Special Meeting of Shareholders), as the case may be. The Chairman of the Meeting may propose any resolution or motion for vote of the shareholders.

(d) The order of business at all meetings of shareholders shall be determined by the Chairman of the Meeting.

(e) The Chairman of the Meeting may impose any reasonable limits with respect to participation in the meeting by shareholders, including, but not limited to, limits on the amount of time taken up by the remarks or questions of any shareholder, limits on the number of questions per shareholder and limits as to the subject matter and timing of questions and remarks by shareholders.

(f) Before any meeting of shareholders, the Board of Directors may appoint three persons other than nominees for office to act as inspectors of election at the meeting or its adjournment. If no inspectors of election are so appointed, the Chairman of the Meeting may, and on the request of any shareholder or a shareholder's proxy shall, appoint inspectors of election at the meeting of the shareholders and the number of such inspectors shall be three. If any person appointed as inspector fails to appear or fails or refuses to act, the Chairman of the Meeting may, and upon the request of any shareholder or a shareholder's proxy shall, appoint a person to fill such vacancy.

The duties of the inspectors shall be to:

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

(ii) receive votes or ballots;

(iii) hear and determine all challenges and questions in any way arising in connection with the vote;

(iv) count and tabulate all votes;

(v) report to the Board of Directors the results based on the information assembled by the inspectors; and

(vi) do any other acts that may be proper to conduct the election or vote with fairness to all shareholders.

Notwithstanding the foregoing, the final certification of the results of the election or other matter acted upon at a meeting of shareholders shall be made by the Board of Directors.

All determinations of the Chairman of the Meeting shall be conclusive unless a matter is determined otherwise upon motion duly adopted by the affirmative vote of the holders of at least 80% of the voting power of the shares of capital stock of the Company entitled to vote in the election of directors held by shareholders present in person or represented by proxy at such meeting.

**Section 9. Proper Business Annual Meeting of Shareholders.**

(a) At any annual meeting of shareholders, only such business shall be conducted as shall be a proper subject for the meeting and shall have been properly brought before the meeting. To be properly brought before an annual meeting of shareholders, business (other than business relating to (i) any nomination or removal of directors, which are governed by Article III, Sections 2 and 8, or (ii) any alteration, amendment or repeal of the Bylaws or any adoption of new Bylaws, which is governed by Article VII hereof) must (a) be specified in the notice of such meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (b) otherwise be properly brought before the meeting by or at the direction of the Chairman of the Meeting or the Board of Directors (or any duly authorized committee thereof) or (c) otherwise (i) be properly requested to be brought before the meeting by a shareholder of record entitled to vote in the election of directors generally, in compliance with the provisions of this Section 9 and (ii) constitute a proper subject to be brought before such meeting. For business to be properly brought before an annual meeting of shareholders, any shareholder who intends to bring any matter (other than a matter relating to (i) any nomination or removal of directors, which are governed by Article III, Sections 2 and 8, or (ii) any alteration, amendment or repeal of the Bylaws or any adoption of new Bylaws, which is governed by Article VII hereof) before an annual meeting of shareholders and is entitled to vote on such matter must deliver, within the applicable time periods set forth herein, including with respect to any required updates or supplements, written notice in proper form of such shareholder's intent to bring such matter before the annual meeting of shareholders, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Company. Such notice must be received by the Secretary not less than 90 days nor more than 180 days prior to the first anniversary of the date on which the immediately preceding year's annual meeting of shareholders was held; provided, however, that if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 60 days after the first anniversary of the preceding year's annual meeting, notice by the shareholder to be timely must be so delivered not earlier than 180 days prior to such annual meeting and

not later than the last to occur of the close of business on (i) the 90th day prior to such annual meeting or (ii) the 10th day following the day on which the Company first makes public announcement of the date of such meeting by (A) a mailing to shareholders, (B) a press release or (C) a filing with the Securities and Exchange Commission (the "Commission") pursuant to Section 13(a) or 14(a) of the Exchange Act. In no event shall the public disclosure of an adjournment of an annual meeting of shareholders commence a new time period for the giving of a shareholder's notice as described above.

To be in proper written form, a shareholder's notice to the Secretary shall set forth, as to each matter the shareholder proposes to bring before the annual meeting of shareholders, the Shareholder Information. No business shall be conducted at an annual meeting of shareholders except in accordance with the procedures set forth in this Section 9.

Within 30 days (or such shorter time period that may exist prior to the date of the meeting) after such shareholder shall have submitted the aforesaid items, the Secretary or the Board of Directors of the Company shall determine whether the proposed business has been properly requested to be brought before the annual meeting of shareholders and shall notify such shareholder in writing of its determination. If such shareholder fails to submit a required item in the form or within the time indicated, or if the Secretary or the Board of Directors of the Company determines that the proposed business otherwise has not been properly requested, then such proposal by such shareholder shall not be voted upon by the shareholders of the Company at such annual meeting of shareholders. The Chairman of the Meeting shall, if the facts warrant, determine and declare to the meeting that a proposal made by a shareholder of the Company pursuant to this Section 9 was not made in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare to the meeting and the defective proposal shall be disregarded.

(b) In addition to the foregoing provisions of this Section 9, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 9.

(c) This Section 9 is expressly intended to apply to any business proposed to be brought before an annual meeting of shareholders other than any proposal that is (1) properly made pursuant to Rule 14a-8 under the Exchange Act and (2) included in the notice of meeting given by or at the direction of the Board of Directors. Nothing in this Section 9 shall be deemed to affect any rights of shareholders to request inclusion of proposals in the Company's proxy statement pursuant to, and in compliance with, Rule 14a-8 under the Exchange Act.

**Section 10. Proper Business Special Meeting of Shareholders.** At any special meeting of shareholders, only such business shall be conducted as shall have been stated in the notice of such meeting or shall otherwise have been properly brought before the meeting by or at the direction of the Chairman of the Meeting or the Board of Directors (or any duly authorized committee thereof).

## ARTICLE III

### DIRECTORS

**Section 1. Term and Qualifications.** (a) The business and affairs of the Company shall be managed by the Board of Directors.

Each director elected by the holders of Preferred Stock pursuant to Division A of Article VI of the Articles of Incorporation (or elected by such directors to fill a vacancy) shall serve for a term ending upon the earlier of the election of his successor or the termination at any time of a right of the holders of Preferred Stock to elect members of the Board of Directors.

Except as may be required otherwise in accordance with the immediately preceding paragraph, at each annual meeting of shareholders, all directors shall be elected to hold office for a term expiring at the next succeeding annual meeting of shareholders and until their successors have been elected and qualified. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(b) No person shall be eligible to serve as a director of the Company subsequent to the annual meeting of shareholders occurring during the year of such person's seventy-third birthday.

No person shall continue to serve as a member of the Board of Directors if the director ceases for any reason to hold the principal employment or position he or she held at the time first elected to the Board of Directors and does not secure a comparable employment or position, as determined in the sole judgment of the Board of Directors, within one year thereof.

No person who is also an employee of the Company or one of its corporate affiliates shall continue to serve as a member of the Board of Directors after his or her retirement, termination or downward change in status in the Company, as determined in the sole judgment of the Board of Directors.

The Board of Directors may waive any qualification set forth above in this Section 1(b) if it determines that the director has special skill, experience or distinction having value to the Company that is not readily available or transferable. Any such waiver shall be made by a majority of the Board of Directors, excluding the director whose disqualification is being waived.

Any vacancies on the Board of Directors resulting from the disqualification of a director by virtue of the above qualifications may be filled pursuant to the terms of the Articles of Incorporation.

The above qualifications and limitations notwithstanding, each director shall serve until his successor shall have been duly elected and qualified, unless he or she shall resign, become disqualified, disabled or shall otherwise be removed.



## **Section 2. Nomination of Directors.**

(a) Nominations for the election of directors may be made by the Board of Directors or by any shareholder entitled to vote in the election of directors. Such nominations, other than those made by the Board of Directors, shall be made in writing pursuant to timely notice in proper form delivered to or mailed and received by the Secretary of the Company as set forth in this Section 2. To be timely in connection with an annual meeting of shareholders, a shareholder's notice shall be delivered to or mailed and received at the principal executive offices of the Company not less than 90 days nor more than 180 days prior to the first anniversary of the date on which the immediately preceding year's annual meeting of shareholders was held; provided, however, that (x) if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 60 days after the first anniversary of the preceding year's annual meeting, notice by the shareholder to be timely must be so delivered not earlier than 180 days prior to such annual meeting and not later than the last to occur of the close of business on (i) the 90th day prior to such annual meeting or (ii) the 10th day following the day on which the Company first makes public announcement of the date of such meeting by (A) a mailing to shareholders, (B) a press release or (C) a filing with the Commission pursuant to Section 13(a) or 14(a) of the Exchange Act and (y) if the number of directors to be elected to the Board of Directors at such annual meeting is increased and there is no prior notice or public disclosure by the Company naming all of the nominees for director or specifying the size of the increased Board of Directors at least 100 days prior to the first anniversary of the date on which the immediately preceding year's annual meeting of shareholders was held, a shareholder's notice required by this Section 2(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the principal executive offices of the Company not later than the close of business on the 10th day following the earlier of the day on which the notice of such meeting was mailed to shareholders of the Company or the day on which such public disclosure was made. To be timely in connection with any election of a director at a special meeting of the shareholders if one or more directors are otherwise to be elected at such meeting, a shareholder's notice shall be delivered to or mailed and received at the principal executive offices of the Company not less than 40 days nor more than 60 days prior to the date of such meeting; provided, however, that in the event that less than 47 days' notice or prior public disclosure of the date of the special meeting of the shareholders is given or made to the shareholders, the shareholder's notice to be timely must be so received not later than the close of business on the seventh day following the day on which such notice of date of the meeting was mailed or such public disclosure was made. To be in proper written form, such notice shall set forth in writing (a) the name and address of the shareholder giving such notice, as they appear on the Company's books and records, of the beneficial owner, if any, on whose behalf the nomination is made and of any other shareholders known by the shareholder to be supporting such nomination, (b) any Disclosable Interest of the shareholder and such beneficial owner, if any, (c) a description of all arrangements, agreements or understandings between the shareholder and the beneficial owner, if any, and between either or both of them and each proposed nominee and any other persons (including their names) pursuant to which the nomination or nominations are to be made, (d) a representation that the shareholder intends to appear in person or by proxy at the meeting

to nominate the persons named in its notice and (e) any other information relating to the shareholder and beneficial owner, if any, that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies for election of directors of the Company in a contested election, or would otherwise be required, in each case pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Such notice shall also include (i) the name, age, business address and residence address of such proposed nominee, (ii) the principal occupation or employment of such proposed nominee, (iii) any Disclosable Interest of such proposed nominee, (iv) any other information relating to proposed nominee that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors of the Company in a contested election, or would otherwise be required, in each case pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including, without limitation, the written consent of such proposed nominee to having such person's name placed in nomination at the meeting and to serve as a director of the Company if elected), (v) a notarized affidavit executed by each such proposed nominee to the effect that, if elected as a member of the Board of Directors, he or she will serve and that he or she is eligible for election as a member of the Board of Directors, (vi) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if such shareholder and such beneficial owner, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant, (vii) any agreements and information with respect to such proposed nominee that are required pursuant to the procedures established by the Board and the Governance Committee relating to majority voting for the election of directors and (viii) a completed and signed questionnaire, representation and agreement required by Section 2(b) with respect to each proposed nominee for election or re-election to the Board of Directors. A shareholder providing notice of any nomination proposed to be made at a meeting shall further update and supplement such notice, 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 business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received at, the principal executive offices of the Company not later than five 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 business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date 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 business days prior to the meeting or any adjournment or postponement thereof). In addition, a

shareholder providing notice of any nomination proposed to be made at a meeting shall update and supplement such notice, and deliver such update and supplement to the principal executive offices of the Company, promptly following the occurrence of any event that materially changes the information provided or required to be provided in such notice. The Company may require any proposed nominee to furnish such other information as may reasonably be required by the Company to determine the eligibility of such proposed nominee to serve as an independent director of the Company or that could be material to a reasonable shareholder's understanding of the independence, or lack thereof, of such nominee. Within 30 days (or such shorter time period that may exist prior to the date of the meeting) after the shareholder has submitted the aforesaid items to the Secretary of the Company, the Secretary of the Company shall determine whether the evidence of the shareholder's status as a shareholder submitted by the shareholder is reasonably satisfactory and shall notify the shareholder in writing of his determination. The failure of the Secretary of the Company to find such evidence reasonably satisfactory, or the failure of the shareholder to submit the requisite information in the form or within the time indicated, shall make the person to be nominated ineligible for nomination at the meeting at which such person is proposed to be nominated. The Chairman of the Meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

(b) To be eligible to be a nominee for election or re-election as a director of the Company, a person must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2(a) of this Article III) to the Secretary at the principal executive offices of the Company a written questionnaire with respect to the background, qualification, stock ownership and independence of such person to be nominated and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be in the form 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 person (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Company, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Company or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Company, with such person's fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Company with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, and (iii) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Company, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Company.

(c) In addition to the foregoing provisions of this Section 2, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.

**Section 3. Place of Meetings and Meetings by Telephone or Remote Communications.** Meetings of the Board of Directors may be held either within or without the State of Texas, at whatever place is specified by the officer calling the meeting. Meetings of the Board of Directors may also be held by means of conference telephone or similar communications equipment, or another suitable electronic communications system, including videoconferencing technology or the Internet, or any combination thereof, by means of which all persons participating in the meeting can communicate with each other. Participation in such a meeting shall constitute presence in person at such meeting, except where a director participates in a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. In the absence of specific designation by the officer calling the meeting, the meetings shall be held at the principal office of the Company.

**Section 4. Regular Meetings.** The Board of Directors shall meet each year immediately following the annual meeting of the shareholders for the transaction of such business as may properly be brought before the meeting. The Board of Directors shall also meet regularly at such other times as shall be designated by the Board of Directors. No notice of any kind to members of the Board of Directors for such annual or regular meetings shall be necessary.

**Section 5. Special Meetings.** Special meetings of the Board of Directors may be held at any time upon the call of the Chairman of the Board, the Chief Executive Officer, the President or the Secretary of the Company or a majority of the directors then in office. Notice shall be sent by mail, facsimile or electronic transmission to the last known address of the director at least two days before the meeting, or oral notice may be substituted for such written notice if received not later than the day preceding such meeting. Notice of the time, place and purpose of such meeting may be waived in writing before or after such meeting, and shall be equivalent to the giving of notice. Attendance of a director at such meeting shall also constitute a waiver of notice thereof, except where he attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Except as otherwise provided by these Bylaws, 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 or waiver of notice of such meeting.

**Section 6. Quorum and Voting.** Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, a majority of the number of directors fixed in the manner provided in the Articles of Incorporation and these Bylaws, as from time to time amended, shall constitute a quorum for the transaction of business. Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, the affirmative vote of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. Any regular or special directors' meeting may be adjourned from time to time by those present, whether a quorum is present or not.

**Section 7. Compensation.** Directors shall receive such compensation for their services as shall be determined by the Board of Directors.

**Section 8. Removal.** No proposal by a shareholder to remove a director of the Company, regardless of whether such director was elected by holders of outstanding shares of Preferred Stock (or elected by the directors to fill a vacancy), shall be voted upon at a meeting of the shareholders unless such shareholder shall have delivered or mailed notice in writing in proper form in a timely manner, including with respect to any required updates or supplements, (as set forth in this Section 8) to the Secretary of the Company. To be in proper written form, a shareholder's notice to the Secretary of the Company shall set forth (a) the Shareholder Information, (b) a statement of the grounds, if any, on which such director is proposed to be removed and (c) an opinion of counsel, which counsel and the form and substance of which opinion shall be reasonably satisfactory to the Board of Directors of the Company (excluding the director proposed to be removed), to the effect that, if adopted at a duly called special or annual meeting of the shareholders of the Company by the required vote as set forth in the Articles of Incorporation, such removal would not be in conflict with the laws of the State of Texas, the Articles of Incorporation or these Bylaws. To be timely in connection with an annual meeting of shareholders, a shareholder's notice and other aforesaid items shall be delivered to or mailed and received at the principal executive offices of the Company not less than 90 days nor more than 180 days prior to the first anniversary of the date on which the immediately preceding year's annual meeting of shareholders was held; provided, however, that if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 60 days after the first anniversary of the preceding year's annual meeting, notice by the shareholder to be timely must be so delivered not earlier than 180 days prior to such annual meeting and not later than the last to occur of the close of business on (i) the 90<sup>th</sup> day prior to such annual meeting or (ii) the 10<sup>th</sup> day following the day on which the Company first makes public announcement of the date of such meeting by (A) a mailing to shareholders, (B) a press release or (C) a filing with the Commission pursuant to Section 13(a) or 14(a) of the Exchange Act. To be timely in connection with the removal of any director at a special meeting of the shareholders, a shareholder's notice and other aforesaid items shall be delivered to or mailed and received at the principal executive offices of the Company not less than 40 days nor more than 60 days prior to the date of such meeting; provided, however, that in the event that less than 47 days' notice or prior public disclosure of the date of the special meeting of shareholders is given or made to the shareholders, the shareholder's notice and other aforesaid items to be timely must be so received not later than the close of business on the seventh day following the day on which such notice of date of the meeting was mailed or such public disclosure was made. Within 30 days (or such shorter period that may exist prior to the date of the meeting) after such shareholder shall have delivered the aforesaid items to the Secretary of the Company, the Secretary or the Board of Directors of the Company (excluding any directors proposed to be removed) shall respectively determine whether the items to be ruled upon by them are reasonably satisfactory and shall notify such shareholder in writing of their respective determinations. If such shareholder fails to submit a required item in the form or within the time indicated, or if the Secretary or the Board of Directors of the Company determines that the items to be ruled upon by them are not reasonably satisfactory, then such proposal by such shareholder may not be voted upon by the shareholders of the Company at such meeting of shareholders. The Chairman of the Meeting shall, if the facts warrant, determine and declare to the meeting that a proposal to remove a director of the Company was not made in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare to the meeting and the defective proposal shall be disregarded.

In addition to the foregoing provisions of this Section 8, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 8.

**Section 9. Executive and Other Committees.** The Board of Directors may designate one or more members of the Board of Directors to constitute an Executive Committee, and one or more other committees, which shall in each case be comprised of such number of directors as the Board of Directors may determine from time to time. Subject to such restrictions as may be contained in the Articles of Incorporation or that may be imposed by the TBOC, any such committee shall have and may exercise such powers and authority of the Board of Directors in the management of the business and affairs of the Company as the Board of Directors may determine by resolution and specify in the respective resolutions appointing them, or as permitted by applicable law, including, without limitation, the power and authority to (a) authorize a distribution, (b) authorize the issuance of shares of the Company and (c) exercise the authority of the Board of Directors vested in it pursuant to Section 21.155 of the TBOC or such successor statute as may be in effect from time to time. Each duly-authorized action taken with respect to a given matter by any such duly-appointed committee of the Board of Directors shall have the same force and effect as the action of the full Board of Directors and shall constitute for all purposes the action of the full Board of Directors with respect to such matter.

The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by law, nor shall such committee function where action of the Board of Directors cannot be delegated to a committee thereof under applicable law. The Board of Directors shall have the power at any time to change the membership of any such committee and to fill vacancies in it. A majority of the members of any such committee shall constitute a quorum. The Board of Directors shall name a chairman at the time it designates members to a committee. Each such committee shall appoint such subcommittees and assistants as it may deem necessary. Except as otherwise provided by the Board of Directors, meetings of any committee shall be conducted in accordance with the provisions of Sections 4 and 6 of this Article III as the same shall from time to time be amended. Any member of any such committee elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Company will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of a member of a committee shall not of itself create contract rights.

**Section 10. Notice.** On consent of a director or committee member, notice from the Company may be given to the director or committee member by electronic transmission. The director or committee member may specify the form of electronic transmission to be used to communicate notice. The director or committee member may revoke this consent by written notice to the Company. The consent is deemed to be revoked if the Company is unable to deliver by electronic transmission two consecutive notices, and the person responsible for delivering notice on behalf of the Company knows that delivery of these two electronic transmissions was unsuccessful. The inadvertent failure to treat the unsuccessful transmissions

as a revocation of consent does not invalidate a meeting or other action. Notice by electronic transmission is deemed given when the notice is (i) transmitted to a facsimile number or an electronic mail address provided by the director or committee member for the purpose of receiving notice; (ii) posted on an electronic network and a message is sent to the director or committee member at the address provided by the director or committee member for the purpose of alerting the director or committee member of a posting; or (iii) communicated to the director or committee member by any other form of electronic transmission consented to by the director or committee member.

**Section 11. Electronic Transmission.** Any form of electronic transmission by a director, or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by a director, is considered an execution in writing for purposes of these Bylaws. To the extent required by applicable law, any electronic transmission must contain or be accompanied by information from which it can be determined that the transmission was authorized by the director.

## ARTICLE IV

### OFFICERS

**Section 1. Officers.** The officers of the Company shall consist of a President and a Secretary and such other officers and agents as the Board of Directors may from time to time elect or appoint. The Board of Directors may delegate to the Chairman of the Board and/or the Chief Executive Officer the authority to appoint and remove additional officers and agents of the Company. Each officer shall hold office until his successor shall have been duly elected or appointed and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Any two or more offices may be held by the same person.

**Section 2. Vacancies; Removal.** Whenever any vacancies shall occur in any office by death, resignation, increase in the number of offices of the Company, or otherwise, the officer elected to fill the vacancy shall hold office for the remainder of the term of such office. Any officer of the Company may be removed at any time by the Board of Directors, whenever in its judgment the best interests of the Company will be served thereby, or, except in the case of an officer appointed by the Board of Directors, by the Chairman of the Board and/or the Chief Executive Officer on whom the power of removal is conferred by the Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

**Section 3. Powers and Duties of Officers.** The officers of the Company shall have such powers and duties as generally pertain to their offices as well as such powers and duties as from time to time shall be conferred by the Board of Directors.

## ARTICLE V

### INDEMNIFICATION

**Section 1. General.** The Company shall indemnify and hold harmless the Indemnitee (as this and all other capitalized words are defined in this Article V), to the fullest extent permitted, or not prohibited, by the TBOC or other applicable law as the same exists or may hereafter be amended (but in the case of any such amendment, with respect to Matters occurring before such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment). The provisions set forth below in this Article V are provided as means of furtherance and implementation of, and not in limitation on, the obligation expressed in this Section 1.

**Section 2. Advancement or Reimbursement of Expenses.** The rights of the Indemnitee provided under Section 1 of this Article V shall include, but not be limited to, the right to be indemnified and to have Expenses advanced (including the payment of expenses before final disposition of a Proceeding) in all Proceedings to the fullest extent permitted, or not prohibited, by the TBOC or other applicable law. In addition, to the extent the Indemnitee is, by reason of his Corporate Status, a witness or otherwise participates in any Proceeding at a time when he is not named a defendant or respondent in the Proceeding, he shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith. The Indemnitee shall be advanced Expenses, within ten days after any request for such advancement, to the fullest extent permitted, or not prohibited, by Chapter 8 of the TBOC; provided that the Indemnitee has provided to the Company all affirmations, acknowledgments, representations and undertakings that may be required of the Indemnitee by Chapter 8 of the TBOC.

**Section 3. Request for Indemnification.** To obtain indemnification, the Indemnitee shall submit to the Secretary of the Company a written claim or request. Such written claim or request shall contain sufficient information to reasonably inform the Company about the nature and extent of the indemnification or advance sought by the Indemnitee. The Secretary of the Company shall promptly advise the Board of Directors of such request.

**Section 4. Determination of Request.** Upon written request to the Company by an Indemnitee for indemnification pursuant to these Bylaws, a determination, if required by applicable law, with respect to an Indemnitee's entitlement thereto shall be made in accordance with Chapter 8 of the TBOC; provided, however, that notwithstanding the foregoing, if a Change in Control shall have occurred, such determination shall be made by a Special Legal Counsel selected by the Board of Directors, unless the Indemnitee shall request that such determination be made in accordance with Section 8.103(a)(1) or (2) of the TBOC. If entitlement to indemnification is to be determined by a Special Legal Counsel, the Company shall furnish notice to the Indemnitee within ten days after receipt of the claim or request for indemnification, specifying the identity and address of the Special Legal Counsel. The Indemnitee may, within fourteen days after receipt of such written notice of selection, deliver to the Company a written objection to such selection. Such objection may be asserted only on the ground that the Special Legal Counsel selected does not meet the requirements of a Special Legal Counsel as defined in Section 10 of this Article V, and the objection shall set forth with particularity the factual basis for that assertion. If there is an objection to the selection of the Special Legal Counsel, either the Company or the Indemnitee may petition the Court for a determination that the objection is without a reasonable basis and/or for the appointment of a Special Legal Counsel selected by the Court. The Company shall pay any and all reasonable fees and expenses of the Special Legal Counsel incurred in connection with any such determination.



If a Change in Control shall have occurred, the Indemnitee shall be presumed (except as otherwise expressly provided in this Article) to be entitled to indemnification under this Article V upon submission of a request to the Company for indemnification, and thereafter the Company shall have the burden of proof in overcoming that presumption in reaching a determination contrary to that presumption. The presumption shall be used by the Special Legal Counsel, or such other person or persons determining entitlement to indemnification, as a basis for a determination of entitlement to indemnification unless the Company provides information sufficient to overcome such presumption by clear and convincing evidence or the investigation, review and analysis of the Special Legal Counsel or such other person or persons convinces him or them by clear and convincing evidence that the presumption should not apply.

**Section 5. Effect of Certain Proceedings.** The termination of any Proceeding or of any Matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Article V) of itself adversely affect the right of the Indemnitee to indemnification or create a presumption that (a) the Indemnitee did not conduct himself in good faith and in a manner which he reasonably believed, in the case of conduct in his official capacity, to be in the best interests of the Company, or, in all other cases, that at least his conduct was not opposed to the Company's best interests, or (b) with respect to any criminal Proceeding, that the Indemnitee had reasonable cause to believe that his conduct was unlawful.

**Section 6. Expenses of Enforcement of Article.** In the event that an Indemnitee, pursuant to this Article V, seeks a judicial adjudication to enforce his rights under, or to recover damages for breach of, rights created under or pursuant to this Article V, the Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company against, any and all Expenses actually and reasonably incurred by him in such judicial adjudication but only if he prevails therein. If it shall be determined in said judicial adjudication that the Indemnitee is entitled to receive part but not all of the indemnification or advancement of Expenses sought, the Expenses incurred by the Indemnitee in connection with such judicial adjudication shall be reasonably prorated in good faith by counsel for the Indemnitee. Notwithstanding the foregoing, if a Change in Control shall have occurred, the Indemnitee shall be entitled to indemnification under this Section 6 regardless of whether indemnitee ultimately prevails in such judicial adjudication.

**Section 7. Nonexclusive Rights.** The rights of indemnification and to receive advancement of Expenses as provided by this Article V shall not be deemed exclusive of any other rights to which the Indemnitee may at any time be entitled under applicable law, the Articles of Incorporation, these Bylaws, agreement, insurance, arrangement, a vote of shareholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Article V or any provision thereof shall be effective as to any Indemnitee for acts, events and circumstances that occurred, in whole or in part, before such amendment, alteration or repeal. The provisions of this Article V shall continue as to an Indemnitee whose Corporate Status has ceased and shall inure to the benefit of his heirs, executors and administrators.

**Section 8. Invalidity.** If any provision or provisions of this Article V shall be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby; and, to the fullest extent possible, the provisions of this Article V shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

**Section 9. Indemnification of Other Persons.** The Company may, by adoption of a resolution of the Board of Directors, indemnify and advance expenses to any other person who is, or is threatened to be made, a witness in or a party to any Proceeding as described in Section 1 or Section 2 of this Article V by reason of that person's Corporate Status to the same extent and subject to the same conditions (or to a lesser extent and/or with other conditions as the Board of Directors may determine) under which it may indemnify and advance expenses to an Indemnitee under this Article V.

**Section 10. Definitions.** For purposes of this Article V:

"Change of Control" means a change in control of the Company occurring after the date of adoption of these Bylaws in any of the following circumstances: (a) there shall have occurred an event required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Exchange Act, whether or not the Company is then subject to such reporting requirement; (b) any "person" (as such term is used in Section 13(d) and 14(d) of the Exchange Act), other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company or a corporation or other entity owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, shall have become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding voting securities without prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person attaining such percentage interest; (c) the Company is a party to a merger, consolidation, share exchange, sale of assets or other reorganization, or a proxy contest, as a consequence of which members of the Board of Directors in office immediately prior to such transaction or event constitute less than a majority of the Board of Directors thereafter; (d) during any fifteen-month period, individuals who at the beginning of such period constituted the Board of Directors (including for this purpose any new director whose election or nomination for election by the Company's shareholders was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board of Directors.

"Corporate Status" describes the status of a person as a director, officer, partner, venturer, proprietor, trustee, employee (including an employee acting in his Designated Professional Capacity), administrator or agent or similar functionary of the Company or any predecessor of the Company or of any other foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise which such person is or was serving in such capacity at the request of the Company or any predecessor of the Company. The Company hereby acknowledges that unless and until the Company provides the Indemnitee with written notice to the contrary, the Indemnitee's service as a director, officer, partner, venturer, proprietor, trustee,

employee, administrator, agent or similar functionary of an Affiliate of the Company shall be conclusively presumed to be at the Company's request. An Affiliate of the Company shall be deemed to be (a) any foreign or domestic corporation in which the Company owns or controls, directly or indirectly, 5% or more of the shares entitled to be voted in the election of directors of such corporation; (b) any foreign or domestic partnership, joint venture, proprietorship or other enterprise in which the Company owns or controls, directly or indirectly, 5% or more of the revenue interests in such partnership, joint venture, proprietorship or other enterprise; or (c) any trust or employee benefit plan the beneficiaries of which include the Company, any Affiliate of the Company as defined in the foregoing clauses (a) and (b) or any of the directors, officers, partners, venturers, proprietors, employees, administrators, agents or similar functionaries of the Company or of such Affiliates of the Company.

"Expenses" shall include any judgment, penalty, settlement, fine, excise or similar tax and all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness in a Proceeding.

"Indemnitee" includes any officer or director of the Company who is, or is threatened to be made, a witness in or a party to any Proceeding as described in Section 1 or Section 2 of this Article V by reason of his Corporate Status.

"Matter" is a claim, a material issue, or a substantial request for relief.

"Proceeding" includes (i) any threatened, pending or completed action, suit, arbitration, alternate dispute resolution proceeding, investigation, administrative hearing and any other proceeding, whether civil, criminal, administrative, arbitral, investigative or other, (ii) any appeal of an action or proceeding described in (i), or (iii) any inquiry or investigation, whether conducted by or on behalf of the Company, a subsidiary of the Company or any other party, formal or informal, that the Indemnitee in good faith believes might lead to the institution of an action or proceeding described in (i), except one initiated by an Indemnitee pursuant to Section 6 of this Article V.

"Special Legal Counsel" means a law firm, or member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the five years previous to his selection or appointment has been, retained to represent: (a) the Company or the Indemnitee in any matter material to either such party; (b) any other party to the Proceeding giving rise to a claim for indemnification hereunder; or (c) the beneficial owner, directly or indirectly, of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding voting securities. Notwithstanding the foregoing, the term "Special Legal Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or the Indemnitee in an action to determine the Indemnitee's rights to indemnification under these Bylaws.

For the purposes of this Article V, an employee acting in his "Designated Professional Capacity" shall include, but not be limited to, a physician, nurse, psychologist or therapist, registered surveyor, registered engineer, registered architect, attorney, certified public accountant or other person who renders such professional services within the course and scope of his employment, who is licensed by appropriate regulatory authorities to practice such profession and who, while acting in the course of such employment, committed or is alleged to have committed any negligent acts, errors or omissions in rendering such professional services at the request of the Company or pursuant to his employment (including, without limitation, rendering written or oral opinions to third parties).

**Section 11. Notice.** Any communication required or permitted to the Company under this Article V shall be addressed to the Secretary of the Company and any such communication to the Indemnitee shall be addressed to the Indemnitee's home address unless he specifies otherwise and shall be personally delivered or delivered by overnight mail or courier delivery.

**Section 12. Insurance and Self-Insurance Arrangements.** The Company may procure or maintain insurance or other similar arrangements, at its expense, to protect itself and any Indemnitee against any expense, liability or loss asserted against or incurred by such person, incurred by him in such a capacity or arising out of his Corporate Status as such a person, whether or not the Company would have the power to indemnify such person against such expense or liability. In considering the cost and availability of such insurance, the Company (through the exercise of the business judgment of its directors and officers) may, from time to time, purchase insurance which provides for any and all of (a) deductibles, (b) limits on payments required to be made by the insurer, or (c) coverage which may not be as comprehensive as that previously included in insurance purchased by the Company. The purchase of insurance with deductibles, limits on payments and coverage exclusions will be deemed to be in the best interest of the Company but may not be in the best interest of certain of the persons covered thereby. As to the Company, purchasing insurance with deductibles, limits on payments, and coverage exclusions is similar to the Company's practice of self-insurance in other areas. In order to protect the Indemnitees who would otherwise be more fully or entirely covered under such policies, the Company shall indemnify and hold each of them harmless as provided in Section 1 or Section 2 of this Article V, without regard to whether the Company would otherwise be entitled to indemnify such officer or director under the other provisions of this Article, or under any law, agreement, vote of shareholders or directors or other arrangement, to the extent (i) of such deductibles, (ii) of amounts exceeding payments required to be made by an insurer or (iii) that prior policies of officer's and director's liability insurance held by the Company or its predecessors would have provided for payment to such officer or director. Notwithstanding the foregoing provision of this Section 12, no Indemnitee shall be entitled to indemnification for the results of such person's conduct that is intentionally adverse to the interests of the Company. This Section 12 is authorized by Section 2.02-1(R) of the Texas Business Corporation Act as in effect on August 31, 2001, and further is intended to establish an arrangement of self-insurance pursuant to that section and any successor statute.

## ARTICLE VI

### MISCELLANEOUS PROVISIONS

**Section 1. Offices.** The principal office of the Company shall be located in Houston, Texas, unless and until changed by resolution of the Board of Directors. The Company may also have offices at such other places as the Board of Directors may designate from time to time, or as the business of the Company may require. The principal office and registered office may be, but need not be, the same.

**Section 2. Resignations.** Any director or officer may resign at any time. Any such resignation shall be made in writing and shall take effect on the date of its receipt by the Chairman of the Board, the Chief Executive Officer, the President or the Secretary, unless the resignation prescribes a later effective date or states that the resignation takes effect on the occurrence of a future event. If the resignation is to take effect on a later date or on the occurrence of a future event, the resignation takes effect on the later date or when the event occurs. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. A resignation is irrevocable when it takes effect. A resignation is revocable before it takes effect unless it expressly states that it is irrevocable.

**Section 3. Seal.** The Corporate Seal shall be circular in form, shall have inscribed thereon the name of the Company and may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

**Section 4. Separability.** If one or more of the provisions of these Bylaws shall be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision hereof and these Bylaws shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

## ARTICLE VII

### AMENDMENT OF BYLAWS

**Section 1. Vote Requirements.** The Board of Directors shall have the power to alter, amend or repeal the Bylaws or adopt new Bylaws. Any alteration, amendment or repeal of the Bylaws or adoption of new Bylaws shall require: (1) the affirmative vote of at least 80% of all directors then in office at any regular or special meeting of the Board of Directors or (2) the affirmative vote of the holders of at least 80% of the voting power of all the shares of the corporation entitled to vote in the election of directors, voting together as a single class.

**Section 2. Shareholder Proposals.** No proposal by one or more shareholders to amend the Bylaws shall be voted upon at an annual meeting of shareholders unless such shareholder shall have delivered or mailed notice in writing in proper form in a timely manner, including with respect to any required updates or supplements, (as set forth in this Section 2) to the Secretary of the Company, including the text of the proposed alteration, amendment or repeal. To be in proper written form, a shareholder's notice to the Secretary of the Company shall set forth (a) the Shareholder Information and (b) an opinion of counsel, which counsel and the form and substance of which opinion shall be reasonably satisfactory to the Board of Directors of the Company, to the effect that the Bylaws (if any) resulting from the adoption of

such proposal would not be in conflict with the Articles of Incorporation or the laws of the State of Texas. To be timely in connection with an annual meeting of shareholders, a shareholder's notice and other aforesaid items shall be delivered to or mailed and received at the principal executive offices of the Company not less than 90 days nor more than 180 days prior to the first anniversary of the date on which the immediately preceding year's annual meeting of shareholders was held; provided, however, that if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 60 days after the first anniversary of the preceding year's annual meeting, notice by the shareholder to be timely must be so delivered not earlier than 180 days prior to such annual meeting and not later than the last to occur of the close of business on (i) the 90th day prior to such annual meeting or (ii) the 10th day following the day on which the Company first makes public announcement of the date of such meeting by (A) a mailing to shareholders, (B) a press release or (C) a filing with the Commission pursuant to Section 13(a) or 14(a) of the Exchange Act. In no event shall the public disclosure of an adjournment of an annual meeting of shareholders commence a new time period for the giving of a shareholder's notice as described above.

Within 30 days (or such shorter time period that may exist prior to the date of the meeting) after such shareholder shall have submitted the aforesaid items, the Secretary or the Board of Directors of the Company shall determine whether the items to be ruled upon by them are reasonably satisfactory and shall notify such shareholder in writing of its determination. If such shareholder fails to submit a required item in the form or within the time indicated, or if the Secretary or the Board of Directors of the Company determines that the items to be ruled upon by them are not reasonably satisfactory, then such proposal by such shareholder may not be voted upon by the shareholders of the Company at such annual meeting of shareholders. The Chairman of the Meeting shall, if the facts warrant, determine and declare to the meeting that a proposal by a shareholder of the Company made pursuant to Article VIII of the Articles of Incorporation and Section 1 of this Article VII was not made in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare to the meeting and the defective proposal shall be disregarded.

No proposal by one or more shareholders to amend the Bylaws shall be voted upon at a special meeting of shareholders unless such proposal has been stated in the notice of such special meeting in accordance with Article II, Section 3 with respect to a meeting called by such shareholders or shall otherwise have been properly brought before the meeting by or at the direction of the Chairman of the Meeting or the Board of Directors (or any duly authorized committee thereof).

In addition to the foregoing provisions of this Section 2, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.