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

FORM 8-K

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

Date of Report (date of earliest event reported): March 1, 2021

APA Corporation
(Exact name of registrant as specified in its charter)

Delaware	**1-4300**	**86-1430562**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

2000 Post Oak Blvd, Suite 100
Houston, Texas 77056-4400
(Address of principal executive offices)(Zip Code)

Registrant's telephone number, including area code: (713) 296-6000

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

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.625 par value	**APA**	**Nasdaq Global Select Market**

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

Emerging growth company ☐

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

Explanatory Note

On January 4, 2021, Apache Corporation, a Delaware corporation ("Apache"), announced plans to implement a holding company reorganization. On March 1, 2021, Apache completed the holding company reorganization. At the effective time of the Merger (as defined in Item 1.01 of this Current Report on Form 8-K (this "Form 8-K")), Apache became a wholly-owned subsidiary of APA Corporation, a Delaware corporation ("APA"), and APA replaced Apache as the public company trading on the Nasdaq Global Select Market (the "Nasdaq") under the ticker symbol "APA". This Form 8-K is being filed for the purpose of establishing APA as the successor issuer pursuant to Rule 12g-3(a) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and to disclose certain other matters. Pursuant to Rule 12g-3(a) under the Exchange Act, shares of APA common stock, par value $0.625 per share ("APA Common Stock"), are deemed registered under Section 12(b) of the Exchange Act as the common stock of the successor issuer.

Item 1.01 Entry into a Material Definitive Agreement.

Adoption of Agreement and Plan of Merger and Consummation of Reorganization

On March 1, 2021, Apache (now a wholly owned subsidiary of APA) implemented a holding company reorganization pursuant to an Agreement and Plan of Merger (the "Merger Agreement"), dated as of March 1, 2021, among Apache, APA, and APA Merger Sub, Inc., a Delaware corporation and wholly-owned subsidiary of APA ("Merger Sub"), which resulted in APA becoming the direct parent company of Apache and replacing Apache as the public company trading on the Nasdaq (the "Reorganization").

Pursuant to the Merger Agreement, Merger Sub merged with Apache, with Apache surviving as a direct, wholly-owned subsidiary of APA (the "Merger"). At the effective time of the Merger (the "Effective Time"), each outstanding share of Apache common stock, par value $0.625 per share ("Apache Common Stock"), was automatically converted into one share of APA Common Stock, having the same designation, rights, powers, and preferences, and qualifications, limitations, and restrictions as a share of Apache Common Stock immediately prior to the Reorganization. Accordingly, upon consummation of the Reorganization, Apache stockholders automatically became stockholders of APA, on a one-for-one basis, with the same number and ownership percentage of shares of the same class as they held in Apache immediately prior to the Effective Time. The Reorganization is intended to be a tax- free transaction for U.S. federal income tax purposes for Apache stockholders.

The Reorganization was conducted pursuant to Section 251(g) of the General Corporation Law of the State of Delaware (the "DGCL"), which provides for the formation of a holding company without a vote of the stockholders of the constituent corporation. The conversion of stock occurred automatically without an exchange of stock certificates. In addition, at the Effective Time:

- each unexercised and unexpired stock option then outstanding under any Apache equity compensation plan, whether or not then exercisable, ceased to represent a right to acquire Apache Common Stock and was converted automatically into a right to acquire the same number of shares of APA Common Stock, on the same terms and conditions as were applicable immediately prior to the Effective Time of the Merger, including without limitation, the vesting schedule (without acceleration thereof by virtue of the Reorganization) and the per-share exercise price; and
- each share of restricted stock and each restricted stock unit (including, deferred stock units) then outstanding under any Apache equity compensation plan that represented or related, as applicable, to Apache Common Stock ceased to represent or relate, as applicable, to Apache Common Stock and was converted automatically to represent or relate, as applicable, to APA Common Stock, on the same terms and conditions as were applicable immediately prior to the Effective Time of the Merger, including, without limitation, the vesting schedule or other lapse restrictions (without acceleration thereof by virtue of the Reorganization).

Following the consummation of the Reorganization, APA Common Stock continues to trade on the Nasdaq on an uninterrupted basis under the ticker symbol "APA" with a new CUSIP number (#03743Q 108). Immediately after the consummation of the Reorganization, APA had, on a consolidated basis, the same assets, businesses, and operations as Apache had immediately prior to the consummation of the Reorganization.

As a result of the Reorganization, APA became the successor issuer to Apache pursuant to Rule 12g-3(a) of the Exchange Act, and as a result, shares of APA Common Stock are deemed registered under Section 12(b) of the Exchange Act as the common stock of the successor issuer.

The foregoing does not purport to be a complete description of the Reorganization and is qualified in its entirety by reference to the Merger Agreement, a copy of which is filed as Exhibit 2.1 to this Current Report on Form 8-K and incorporated by reference herein.

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standards; Transfer of Listing.

Following the consummation of the Reorganization, APA Common Stock continues to trade on the Nasdaq on an uninterrupted basis under the ticker symbol "APA".

The information set forth in Item 1.01 and Item 5.03 and in Item 8.01 under the heading "Successor Issuer," describing the succession of APA to Exchange Act Section 12(b) and reporting obligations of Apache, is hereby incorporated by reference in this Item 3.01.

In connection with the Reorganization, on February 19, 2021, Apache requested that the Nasdaq file with the U.S. Securities and Exchange Commission (the "Commission") an application on Form 25 to delist the Apache Common Stock from the Nasdaq and deregister the Apache Common Stock under Section 12(b) of the Exchange Act. Apache intends to file a certificate on Form 15 requesting that the Apache Common Stock be deregistered under the Exchange Act and that Apache's reporting obligations under Section 15(d) of the Exchange Act be suspended (except to the extent of the succession of APA to the Exchange Act Section 12(b) registration and reporting obligations of Apache as described under the heading "Successor Issuer" in Item 8.01 below).

Item 3.03 Material Modification of Rights of Security Holders.

At the Effective Time of the Merger, each share of Apache Common Stock issued and outstanding immediately prior to the Effective Time of the Merger automatically converted into a share of APA Common Stock, having the same designations, rights, powers, and preferences and the qualifications, limitations, and restrictions as a share of Apache Common Stock immediately prior to the Effective Time of the Merger.

The information set forth in Item 1.01 and Item 5.03 is hereby incorporated by reference in this Item 3.03.

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

Appointment of Certain Officers of APA; Election of New Directors of APA

The directors of APA and their committee memberships, which are listed below, are identical to the directors of Apache immediately prior to the Effective Time of the Merger.

Directors

Name	Age	Audit(1)	CG&N(2)	MD&C(3)
John E. Lowe(4)	62			
Annell R. Bay	65		**C**	•
John J. Christmann IV	54			
Juliet S. Ellis	62		•	•
Chansoo Joung	60	**C**	•	
Rene R. Joyce	73			•
H. Lamar McKay	62			•
William C. Montgomery	59			**C**
Amy H. Nelson	52	•	•	
Daniel W. Rabun	66	•	•	
Peter A. Ragauss	63	•		

C = Committee Chairperson
• = Committee Member
(1) Audit Committee
(2) Corporate Governance and Nominating Committee
(3) Management Development and Compensation Committee
(4) Independent, Non-Executive Chairman of the Board

Biographical information about APA's directors, other than Mr. McKay, is set forth on pages 7 through 12 of Apache's Schedule 14A for the 2020 Annual Meeting of Stockholders (the "2020 Proxy Statement") under "Nominees for Election as Directors," and biographical information about Mr. McKay is set forth in Apache's Current Report on Form 8-K filed with the Commission on February 9, 2021. All such information is incorporated by reference herein. Information regarding the compensation arrangements of APA's directors is set forth on pages 19 through 21 of Apache's 2020 Proxy Statement under "Director Compensation" and is incorporated by reference herein.

APA's board of directors has determined that Mses. Bay, Ellis, and Nelson and Messrs. Joung, Joyce, Lowe, McKay, Montgomery, Rabun, and Ragauss are independent, as that term is defined by the applicable rules and regulations of the Nasdaq.

The executive officers of APA and their positions and titles, which are listed below, are identical to the executive officers of Apache immediately prior to the Effective Time of the Reorganization.

Executive Officers

Name	Age	Position
D. Clay Bretches	56	Executive Vice President, Operations
John J. Christmann IV	54	Chief Executive Officer and President
Rebecca A. Hoyt	56	Senior Vice President, Chief Accounting Officer, and Controller
P. Anthony Lannie	67	Executive Vice President and General Counsel
David A. Pursell	57	Executive Vice President, Development
Stephen J. Riney	60	Executive Vice President and Chief Financial Officer

Biographical information about APA's executive officers, other than Mr. Christmann, is set forth on page 25, and biographical information about Mr. Christmann is set forth on page 8, in each case, of Apache's 2020 Proxy Statement under "Information About our Executive Officers," and "Election of Directors," respectively, and is incorporated by reference herein. Information regarding the compensation arrangements of APA's named executive officers is included in pages 27 through 53 of Apache's 2020 Proxy Statement under "Compensation Discussion and Analysis" and Apache's Current Report on Form 8-K, filed with the Commission on August 21, 2020, under "Item 8.01 Other Information" and each is incorporated by reference herein.

In connection with the Reorganization, on March 1, 2021, APA and Apache entered into an Assignment and Assumption Agreement (the "Assignment and Assumption Agreement"), pursuant to which, effective as of the Effective Time of the Merger, Apache assigned to APA, and APA assumed, all obligations of Apache under (i) all of Apache's employee, director, and executive compensation plans pursuant to which Apache is obligated to, or may, issue equity securities to its directors, officers, or employees, including any currently-effective amendments thereto and/or restatements thereof (the "Stock Incentive Plans"), including, but not limited to, Apache's 2007 Omnibus Equity Compensation Plan, 2011 Omnibus Equity Compensation Plan, and 2016 Omnibus Compensation Plan (collectively, the "Omnibus Plans") and Apache's Deferred Delivery Plan, (ii) Apache's equity-based award agreements, programs, sub-plans, notices, and/or similar agreements entered into or issued pursuant to the Stock Incentive Plans, and each outstanding award granted or assumed thereunder (collectively, the "Award Agreements"), and (iii) certain other agreements and plans (the "Other Agreements and Plans" and, collectively with the Stock Incentive Plans and the Award Agreements, the "Assumed Agreements"), including, but not limited to, Apache's Income Continuance Plan, as amended and restated July 29, 2019 (the "Income Continuance Plan") and Apache's Executive Termination Policy, effective as of July 29, 2019 (the "Executive Termination Policy"). At the Effective Time of the Merger, each of the Assumed Agreements was automatically deemed to be amended as necessary to provide that references to Apache in such Assumed Agreement will be read to refer to APA and references to Apache Common Stock in such Assumed Agreement will be read to refer to APA Common Stock.

The foregoing description of the Assignment and Assumption Agreement does not purport to be complete and is qualified in its entirety by reference to the Assignment and Assumption Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference herein.

For information regarding disclosure required pursuant to Item 404(a) of Regulation S-K, see the discussion under the heading "Certain Business Relationships and Transactions" set forth on page 66 of Apache's 2020 Proxy Statement, with respect to our executive officers and directors, other than Mr. McKay, and see Apache's Current Report on Form 8-K filed with the Commission on February 9, 2021, with respect to Mr. McKay. Except as disclosed in this Item 5.02, there have been no transactions involving APA and our executive officers and directors that APA would be required to disclose pursuant to Item 404(a) of Regulation S-K.

Amendments to Certain Assumed Agreements

Effective March 1, 2021, after the Effective Time, the board of directors of APA approved certain amendments (the "Amendments") to the Income Continuance Plan, the Executive Termination Policy, the Omnibus Plans, and certain Award Agreements, including awards of Non-Qualified Stock Options (the "Option Awards") and Restricted Stock Units, both time-based vesting and performance-based vesting (the "RSU Awards", and together with the Option Agreements, the "Grant Agreements") under the Omnibus Plans, each as assumed by APA pursuant to the Assignment and Assumption Agreement. The Amendments are intended to better align APA's plans and policies with the Reorganization.

The Amendments to the Income Continuance Plan, include, but are not limited to, (1) revising references to Apache to be read to refer to APA and references to the Apache Common Stock to be read to refer to the APA Common Stock, (2) providing that the eligibility criteria for the Income Continuance Plan includes those persons who are employed not just by APA but by an affiliate of APA, including Apache, (3) adding a clarification that a transfer between affiliated entities of APA is not deemed to be a separation from service, and (4) adding further clarifications to account for a participant's employment at an affiliated entity of APA. The description of the Amendments in the Income Continuance Plan, as amended and restated effective as of March 1, 2021 (the "A&R Income Continuance Plan"), is qualified in its entirety by reference to the A&R Income Continuance Plan, which is attached hereto as Exhibit 10.2.

The Amendments to the Executive Termination Policy were solely to revise the references to Apache to be read to refer to APA. The description of the Amendments in the Executive Termination Policy, as amended and restated effective as March 1, 2021 (the "A&R Executive Termination Policy"), is qualified in its entirety by reference to the A&R Executive Termination Policy, which is attached hereto as Exhibit 10.3.

The Amendments to the Omnibus Plans (the "Plan Amendments") include, but are not limited to, revising the definition of "Involuntary Termination" and making further clarifications in each Omnibus Plan to account for a participant's employment at an affiliate of APA. The Grant Agreements also include similar Amendments. The descriptions of the Plan Amendments and the Amendments to the Grant Agreements are qualified in their entirety by reference to the Plan Amendments and the Amendments to the Grant Agreements, which are attached hereto as Exhibits 10.4 through 10.9.

Amendments to Apache's Retirement Plans

Effective March 1, 2021, Apache approved amendments (the "Retirement Amendments") to the Apache Corporation 401(k) Savings Plan (the "Apache 401(k) Plan"), the Apache Corporation Non-Qualified Retirement/Savings Plan (the "Apache NQ Plan"), and the Apache Corporation Non-Qualified Restorative Retirement Savings Plan (the "Apache NQ Restorative Plan", and together with the Apache 401(k) Plan and the Apache NQ Plan, the "Apache Retirement Plans"). The executive officers of APA continue to be entitled to participate in the Apache Retirement Plans, which were retained by Apache, following the Reorganization. The Retirement Amendments are intended to better align the Apache Retirement Plans with the Reorganization.

The Retirement Amendment to the Apache 401(k) Plan includes replacing the definition of "change of control" in the vesting schedule with a cross reference to such definition in the A&R Income Continuance Plan. The description of the Retirement Amendment to the Apache 401(k) Plan is qualified in its entirety by reference to the Retirement Amendment to the Apache 401(k) Plan, which is attached hereto as Exhibit 10.10.

The Retirement Amendments to the Apache NQ Plan and Apache NQ Restorative Plan include revising the references to Apache in the definition of "Change of Control" in each plan to be read to refer to APA. The description of the Retirement Amendments to the Apache NQ Plan and Apache NQ Restorative Plan is qualified in its entirety by reference to the Retirement Amendments to the Apache NQ Plan and Apache NQ Restorative Plan, which are attached hereto as Exhibits 10.11 and 10.12, respectively.

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

Upon consummation of the Reorganization, the Amended and Restated Certificate of Incorporation of APA (the "Amended and Restated Certificate of Incorporation") and the Amended and Restated Bylaws of APA (the "Amended and Restated Bylaws") are the same as the certificate of incorporation and bylaws of Apache immediately prior to consummation of the Reorganization, respectively, other than changes permitted by Section 251(g) of the DGCL.

The Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws are filed as Exhibit 3.1 and Exhibit 3.2, respectively, to this Current Report on Form 8-K and incorporated by reference herein.

Item 8.01 Other Events.

On March 1, 2021, APA issued a press release announcing the completion of the Reorganization.

A copy of the press release is attached as Exhibit 99.1 and incorporated by reference herein.

Successor Issuer

In connection with the Reorganization and by operation of Rule 12g-3(a) promulgated under the Exchange Act, APA is the successor issuer to Apache and has succeeded to the attributes of Apache as the registrant. However, because Apache will continue (until otherwise determined by its board of directors) to make voluntary Exchange Act filings with the Commission, Apache's Commission file number and CIK number will remain with Apache. The shares of APA Common Stock are deemed to be registered under Section 12(b) of the Exchange Act, and APA is subject to the informational requirements of the Exchange Act, and the rules and regulations promulgated thereunder. APA hereby reports this succession in accordance with Rule 12g-3(f) promulgated under the Exchange Act.

Description of Equity Securities

The description of APA's equity securities provided in Exhibit 4.2, which is incorporated by reference herein, modifies and supersedes any prior description of APA's equity securities in any registration statement or report filed with the Commission and will be available for incorporation by reference into certain of APA's filings with the Commission pursuant to the Securities Act of 1933, as amended (the "Securities Act"), the Exchange Act, and the rules and forms promulgated thereunder.

Forward-Looking Statements.

This Form 8-K contains forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. Forward-looking statements can be identified by words such as "anticipates," "intends," "plans," "seeks," "believes," "continues," "could," "estimates," "expects," "guidance," "may," "might," "outlook," "possibly," "potential," "projects," "prospects," "should," "will," "would," and similar references to future periods, but the absence of these words does not mean that a statement is not forward-looking. These statements include, but are not limited to, statements about future plans, expectations, and objectives for the operations of APA and its consolidated subsidiaries, including statements about our capital plans, drilling plans, production expectations, asset sales, and monetizations. While forward-looking statements are based on assumptions and analyses made by us that we believe to be reasonable under the circumstances, whether actual results and developments will meet our expectations and predictions depend on a number of risks and uncertainties which could cause our actual results, performance, and financial condition to differ materially from our expectations. See "Risk Factors" in Apache's Annual Report on Form 10-K for the fiscal year ended December 31, 2020 and in our quarterly reports on Form 10-Q filed with the Commission for a discussion of risk factors that affect our business. Any forward-looking statement made in this Form 8-K speaks only as of the date on which it is made. Factors or events that could cause our actual results to differ may emerge from time to time, and it is not possible for us to predict all of them. APA undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future development, or otherwise, except as may be required by law.

Item 9.01 Financial Statements and Exhibits.

(d) ***Exhibits***

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated as of March 1, 2021, by and among Apache Corporation, APA Corporation, and APA Merger Sub, Inc.
3.1	Amended and Restated Certificate of Incorporation of APA Corporation, dated March 1, 2021.
3.2	Amended and Restated Bylaws of APA Corporation, dated March 1, 2021.
4.1	Specimen Common Stock Certificate of APA Corporation.
4.2	Description of Equity Securities.
10.1	Assignment and Assumption Agreement, dated as of March 1, 2021, by and between APA Corporation and Apache Corporation.
10.2	APA Corporation Income Continuance Plan, as amended and restated effective as of March 1, 2021.
10.3	APA Corporation Executive Termination Policy, as amended and restated effective as of March 1, 2021.
10.4	First Amendment to the APA Corporation 2007 Omnibus Equity Compensation Plan, dated March 1, 2021.
10.5	Second Amendment to the APA Corporation 2011 Omnibus Equity Compensation Plan, dated March 1, 2021.
10.6	Second Amendment to the APA Corporation 2016 Omnibus Equity Compensation Plan, dated March 1, 2021.
10.7	Amendment of Restricted Stock Unit Award Agreement, dated March 1, 2021.
10.8	Amendment of Performance Share Grant Agreement, dated March 1, 2021.
10.9	Amendment of Stock Option Grant Agreement, dated March 1, 2021.
10.10	Amendment to Apache Corporation 401(k) Savings Plan, dated March 1, 2021.
10.11	Amendment to Apache Corporation Non-Qualified Retirement/Savings Plan, dated March 1, 2021.
10.12	Amendment to Apache Corporation Non-Qualified Restorative Retirement Savings Plan, dated March 1, 2021.
99.1	Press release of APA Corporation, dated March 1, 2021.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

APA Corporation

By: /s/ Rajesh Sharma
Name: Rajesh Sharma
Title: Corporate Secretary

Date: March 1, 2021

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this "***Agreement***"), dated as of March 1, 2021, by and among Apache Corporation, a Delaware corporation (the "***Company***"), APA Corporation, a Delaware corporation and a direct wholly owned subsidiary of the Company ("***APA***"), and APA Merger Sub, Inc., a Delaware corporation and a direct wholly owned subsidiary of APA ("***Merger Sub***").

RECITALS

WHEREAS, the Company desires to reorganize into a holding company structure through the merger (the "***Merger***") of Merger Sub with the Company, with the Company surviving the Merger as a wholly-owned subsidiary of APA, pursuant to Section 251(g) of the General Corporation Law of the State of Delaware (the "***DGCL***");

WHEREAS, at the Effective Time (as defined herein) of the Merger, each outstanding share of common stock, par value $0.625 per share, of the Company (the "***Company Common Stock***") shall be converted into one share of common stock, par value $0.625 per share, of APA (the "***APA Common Stock***");

WHEREAS, the shares of APA Common Stock shall have the same designations, rights, powers, and preferences, and the qualifications, limitations, and restrictions thereof, as the shares of Company Common Stock;

WHEREAS, the Amended & Restated Certificate of Incorporation of APA ("***APA A&R Charter***") and the Amended & Restated Bylaws of APA ("***APA A&R Bylaws***"), each as in effect immediately following the Effective Time, shall contain provisions identical to the Restated Certificate of Incorporation of the Company (the "***Company Charter***") and the Amended and Restated Bylaws of the Company (the "***Company Bylaws***"), respectively, each as in effect immediately prior to the Effective Time, other than as permitted by Section 251(g) of the DGCL;

WHEREAS, APA and Merger Sub are newly formed corporations organized for the sole purpose of participating in the transactions herein contemplated and actions related thereto, own no assets (other than APA's ownership of Merger Sub and nominal capital), and have taken no actions other than those necessary or advisable to organize the corporations and to effect the transactions herein contemplated and actions related thereto;

WHEREAS, at or promptly following the Effective Time, the Company and APA will enter into an assignment and assumption agreement (the "***Assignment and Assumption Agreement***"), pursuant to which, among other things, the Company will, at the Effective Time, transfer to APA, and APA will assume, from and after the Effective Time, sponsorship of the Stock Incentive Plans, the Award Agreements, and the Other Agreements and Plans (each as defined below) and all of the Company's rights and obligations thereunder;

WHEREAS, the directors of the Company immediately prior to the Effective Time will cease to be directors of the Company and shall instead be the directors of APA immediately following the Effective Time;

WHEREAS, at the Effective Time, the Company Charter shall be amended and restated as set forth in this Agreement and as required by Section 251(g) of the DGCL;

WHEREAS, the parties intend that, for United States federal income tax purposes, (i) the Merger will qualify as an exchange described in Section 351 of the Internal Revenue Code of 1986, as amended (the "***Code***"), (ii) the Merger will qualify as a tax-free reorganization under Section 368(a) of the Code, and (iii) the stockholders of the Company will not recognize gain or loss in connection with the Merger; and

WHEREAS, the respective boards of directors of each of the Company and APA have approved and declared advisable this Agreement and the transactions contemplated hereby, including, without limitation, the Merger, and the sole director of Merger Sub has (i) approved and declared advisable this Agreement and the transactions contemplated hereby, including, without limitation, the Merger; (ii) resolved to submit the adoption of this Agreement and the transactions completed hereby, including, without limitation, the Merger, to Merger Sub's sole stockholder; and (iii) recommended that Merger Sub's sole stockholder vote in favor of the adoption of this Agreement and the transactions completed hereby, including, without limitation, the Merger.

NOW, THEREFORE, in consideration of the premises and agreements contained in this Agreement, and intending to be legally bound hereby, the Company, APA, and Merger Sub hereby agree as follows:

Section 1. **The Merger.** In accordance with Section 251(g) of the DGCL and subject to, and upon the terms and conditions of, this Agreement, Merger Sub shall be merged with the Company, the separate corporate existence of Merger Sub shall cease, and the Company shall continue as the surviving corporation of the Merger (the "***Surviving Corporation***"). At the Effective Time, the effects of the Merger shall be as provided in this Agreement and in Sections 251(g) and 259 of the DGCL.

Section 2. **Effective Time.** As soon as practicable after the execution and delivery of this Agreement and adoption of this Agreement by the sole stockholder of Merger Sub, the Company shall file with the Office of the Secretary of State of the State of Delaware a certificate of merger (the "***Certificate of Merger***") in the form attached hereto as Exhibit A, executed in accordance with the applicable provisions of the DGCL, and shall make all other filings or recordings required under the DGCL to effectuate the Merger. The Merger shall become effective upon the filing of the Certificate of Merger or at such later date and time as set forth in the Certificate of Merger (the date and time that the Merger becomes effective, the "***Effective Time***").

Section 3. **Surviving Corporation Certificate of Incorporation.** From and after the Effective Time, the Company Charter shall be amended and restated in the Merger by the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, and, as so amended and restated, shall be the certificate of incorporation of the Surviving Corporation until thereafter amended as provided therein and in accordance with the applicable provisions of the DGCL (the "***Surviving Corporation Charter***").

Section 4. **Surviving Corporation Bylaws**. From and after the Effective Time, the Company Bylaws shall be amended and restated in the Merger in the form attached hereto as

Exhibit B and, as so amended and restated, shall be the bylaws of the Surviving Corporation until thereafter amended as provided therein and in accordance with the applicable provisions of the DGCL (the "***Surviving Corporation Bylaws***").

Section 5. **Directors**.

a. Company. The directors of the Company in office immediately prior to the Effective Time shall (i) immediately prior to the Effective Time, elect successor directors to hold office as of the Effective Time (the "***Successor Directors***") and (ii) as of the Effective Time, cease to be the directors of the Surviving Corporation. The Successor Directors shall hold office from the Effective Time until the earlier of their resignation or removal or until their successors are duly elected or appointed and qualified in the manner provided in the Surviving Corporation Charter and the Surviving Corporation Bylaws, or as otherwise provided by law.

b. APA. The directors of the Company in office immediately prior to the Effective Time shall be the directors of APA upon the Effective Time and will continue to hold office from the Effective Time until the earlier of their resignation or removal or until their successors are duly elected or appointed and qualified in the manner provided in the APA A&R Charter and the APA A&R Bylaws, or as otherwise provided by law.

Section 6. **Officers**.

a. Company. The officers of the Company in office immediately prior to the Effective Time shall remain the officers of the Surviving Corporation and will continue to hold office from the Effective Time until the earlier of their resignation or removal or until their successors are duly elected or appointed and qualified in the manner provided in the Surviving Corporation Charter and Surviving Corporation Bylaws, or as otherwise provided by law.

b. APA. The officers of the Company in office immediately prior to the Effective Time shall be the officers of APA upon the Effective Time and will continue to hold office from the Effective Time until the earlier of their resignation or removal or until their successors are duly elected or appointed and qualified in the manner provided in the APA A&R Charter and APA A&R Bylaws, or as otherwise provided by law.

Section 7. **Additional Actions**. Subject to the terms of this Agreement, the parties shall take all such reasonable and lawful action as may be necessary or appropriate in order to effectuate the Merger and to comply with the requirements of Sections 251(g) of the DGCL. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances, or any other actions or things are necessary or desirable to vest, perfect, or confirm, of record or otherwise, in the Surviving Corporation its right, title, or interest in, to, or under any of the rights, properties, or assets of either the Company or Merger Sub acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of each of the Company and Merger Sub, all such deeds, bills of sale, assignments, and assurances and to take and do, in the name and on behalf of each of the Company and Merger Sub or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect, or confirm any and all right, title, and interest in, to, and under such rights, properties, or assets in the Surviving Corporation or otherwise to carry out this Agreement.

Section 8. **Effect on Capital Stock.** At the Effective Time, by virtue of the Merger and without any action on the part of the Company, APA, Merger Sub, or any holder of any securities thereof:

a. Conversion of Outstanding Company Common Stock. Each share of Company Common Stock that is issued and outstanding immediately prior to the Effective Time shall be converted into one validly issued, fully paid, and nonassessable share of APA Common Stock.

b. Conversion of Capital Stock of Merger Sub. Each share of common stock, par value $0.001 per share, of Merger Sub that is issued and outstanding immediately prior to the Effective Time shall be converted into one validly issued, fully paid, and nonassessable share of common stock, par value $0.625 per share, of the Surviving Corporation.

c. Conversion of Company Common Stock Held in Treasury. Each share of Company Common Stock that is issued but not outstanding and held in the Company's treasury immediately prior to the Effective Time shall be converted into one validly issued, fully paid, and nonassessable share of APA Common Stock, to be held in APA's treasury immediately after the Effective Time.

d. No Further Ownership Rights of Company Common Stock. Upon conversion thereof in accordance with this Section 8, all shares of Company Common Stock shall be cancelled and cease to be outstanding, such conversion to be deemed paid in full satisfaction of all rights pertaining to such shares of Company Common Stock, except, in all cases, as set forth in Section 12 and Section 251(g) of the DGCL. From and after the Effective Time, there shall be no further registration of transfers of shares of Company Common Stock on the transfer books of the Surviving Corporation. If, after the Effective Time, any certificate that immediately prior to the Effective Time represented shares of Company Common Stock (a "***Certificate***") is presented to the Surviving Corporation or its transfer agent for any reason, such Certificate shall be cancelled and exchanged as provided in Section 12.

Section 9. **Assumption of Stock Incentive Plans, Award Agreements, and Other Agreements and Plans**. At the Effective Time, pursuant to this Agreement and the Assignment and Assumption Agreement, the Company will assign to APA, and APA will: (i) assume sponsorship of, and all of the Company's rights and obligations under, all of the Company's Stock Incentive Plans (as defined in the Assignment and Assumption Agreement); (ii) assume and agree to perform all obligations of the Company pursuant to each equity-based award agreement, program, sub-plan, notice, and/or similar agreement entered into or issued pursuant to the Stock Incentive Plans, and each outstanding award granted or assumed thereunder, including, without limitation, each outstanding Option, Restricted Stock, or RSU award (each, as defined below) (collectively, the "***Award Agreements***"); and (iii) assume and agree to perform all obligations of the Company pursuant to each of the other agreements and plans (the "***Other Agreements and Plans***") listed on Exhibit A to the Assignment and Assumption Agreement.

a. Options. At the Effective Time, each unexercised and unexpired option to purchase shares of Company Common Stock (collectively, the "***Options***") then outstanding under any of the Stock Incentive Plans, whether or not then exercisable, shall, by virtue of this Agreement and the Assignment and Assumption Agreement, and without any action on the part of the holder thereof, be assumed by APA. Each Option so assumed by APA will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Stock Incentive Plan and any agreements in effect thereunder immediately prior to the Effective Time, including, without limitation, the vesting schedule (without acceleration thereof by virtue of the Merger and the transactions contemplated hereby) and per-share exercise price, except that each Option will be exercisable (or will become exercisable in accordance with its terms) for that number of shares of APA Common Stock equal to the number of shares of Company Common Stock that were subject to such Option immediately prior to the Effective Time.

b. Restricted Stock. At the Effective Time, each share of Company Common Stock granted under the Stock Incentive Plans then outstanding that remains subject to vesting or other lapse restrictions (collectively, the "***Restricted Stock***") shall, by virtue of this Agreement and the Assignment and Assumption Agreement, and without any action on the part of the holder thereof, be assumed by APA. Each share of Restricted Stock so assumed by APA will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Stock Incentive Plan and any agreements thereunder in effect immediately prior to the Effective Time (including, without limitation, the vesting or other lapse restrictions (without acceleration thereof by virtue of the Merger and the transactions contemplated hereby)), except that each share of Restricted Stock will be converted into one restricted share of APA Common Stock, and each such share of Restricted Stock shall otherwise be treated in the same manner as each other share of Company Common Stock hereunder.

c. Restricted Stock Units. At the Effective Time, each restricted stock unit granted under the Stock Incentive Plans that is then outstanding (collectively, the "***RSUs***," which for the avoidance of doubt includes RSUs subject to either time-based vesting or performance based vesting conditions, whether settlement is in equity or cash, and deferred stock units) shall, by virtue of this Agreement and the Assignment and Assumption Agreement, and without any action on the part of the holder thereof, be assumed by APA. Each RSU so assumed by APA will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Stock Incentive Plan and any agreements thereunder immediately in effect prior to the Effective Time (including, without limitation, the vesting schedule (without acceleration thereof by virtue of the Merger and the transactions contemplated hereby)), except that each RSU based on Company Common Stock will be converted into an RSU subject to that number of shares of APA Common Stock equal to the number of shares of Company Common Stock that were subject to such RSU immediately prior to the Effective Time.

Section 10. **No Change of Control.** The Company and APA agree that the Merger does not constitute a "Change of Control" under the Stock Incentive Plans, the Award Agreements, or any Other Agreement or Plan.

Section 11. **Reservation of Shares.** On or prior to the Effective Time, APA will reserve sufficient shares of APA Common Stock to provide for the issuance of APA Common Stock under the Stock Incentive Plans, including upon exercise of Options outstanding under the Stock Incentive Plans, if applicable.

Section 12. **Stock Certificates.** From and after the Effective Time until thereafter surrendered to APA or its transfer agent for transfer or exchange in the ordinary course, each Certificate shall be deemed for all purposes to evidence ownership of and to represent the shares of APA Common Stock into which the shares of Company Common Stock represented by such Certificate immediately prior to the Effective Time have been converted pursuant to this Agreement, and each such Certificate shall be so registered on the books and records of APA and its transfer agent. From and after the Effective Time, upon the surrender to APA or its transfer agent for transfer or exchange in the ordinary course of any Certificate, APA shall issue or cause to be issued a new certificate representing the class and number of shares of APA Common Stock previously represented by such Certificate to the person or persons or entity or entities entitled thereto. If any Certificate shall have been lost, stolen, or destroyed, then, upon the making of an affidavit of such fact by the person or entity claiming such Certificate to be lost, stolen, or destroyed and the providing of an indemnity by such person or entity to APA, in form, substance, and amount reasonably satisfactory to APA, against any claim that may be made against it with respect to such Certificate, APA shall issue or cause to be issued to such person or entity, in exchange for such lost, stolen, or destroyed Certificate, a new certificate representing the class and number of shares of APA Common Stock into which the shares of Company Common Stock represented by such Certificate immediately prior to the Effective Time have been converted pursuant to this Agreement.

Section 13. **APA Shares.** Prior to the Effective Time, the Company and APA shall take any and all actions as are necessary to ensure that each share of capital stock of APA that is owned by the Company immediately prior to the Effective Time shall be cancelled and cease to be outstanding from and after the Effective Time, and no payment shall be made therefor, and the Company, by execution of this Agreement, agrees to forfeit such shares and relinquish any rights to such shares.

Section 14. **No Appraisal Rights.** In accordance with the DGCL, no appraisal rights shall be available to any holder of shares of Company Common Stock in connection with the Merger.

Section 15. **Tax Treatment.** This Agreement is intended to constitute a “plan of reorganization” within the meaning of Treasury Regulation Section 1.368-2(g), and the Merger is

intended to qualify as a reorganization within the meaning of Section 368(a) of the Code. The Merger is also intended to constitute a transaction as to which the rights of the holders of the Company Common Stock have been previously defined, and in which such holders will exchange such stock for all the APA Common Stock (constituting all the issued and outstanding stock of APA and "control" of APA within the meaning of Section 368(c) of the Code), subject to Section 351(a) and related provisions of the Code. Each party hereto shall use its reasonable best efforts to cause the Merger to qualify for the foregoing treatment, and will not knowingly take any actions or cause any actions to be taken which could reasonably be expected to prevent the Merger from qualifying for such treatment. Each party hereto shall file all tax returns (including amended returns and claims for refunds) in a manner consistent with such treatment and shall use their reasonable best efforts to sustain such treatment in any subsequent tax audit or dispute.

Section 16. **Termination.** This Agreement may be terminated, and the Merger and the other transactions provided for herein may be abandoned, whether before or after the adoption of this Agreement by the sole stockholder of Merger Sub, at any time prior to the Effective Time, by action of the board of directors of the Company. In the event of termination of this Agreement, this Agreement shall forthwith become void and have no effect, and none of the Company, APA, Merger Sub, or any of their respective stockholders, directors, or officers shall have any liability with respect to such termination or abandonment.

Section 17. **Amendments.** At any time prior to the Effective Time, this Agreement may be supplemented, amended, or modified, whether before or after the adoption of this Agreement by the sole stockholder of Merger Sub, by the mutual consent of the parties to this Agreement; provided, however, that no amendment shall be effected subsequent to the adoption of this Agreement by the sole stockholder of Merger Sub that by law requires further approval or authorization by the sole stockholder of Merger Sub or the stockholders of the Company without such further approval or authorization. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by all of the parties hereto.

Section 18. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws.

Section 19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original and all of which shall constitute one and the same agreement. Facsimile copies or "PDF" or similar electronic data format copies of signatures shall constitute original signatures for all purposes of this Agreement and any enforcement hereof.

Section 20. **Entire Agreement.** This Agreement constitutes the entire agreement and supersedes all other prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof.

Section 21. **Severability.** The provisions of this Agreement are severable, and in the event that any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

[*Remainder of Page Intentionally Blank*]

IN WITNESS WHEREOF, the Company, APA, and Merger Sub have caused this Agreement to be executed by their respective duly authorized officers as of the date first written above.

APACHE CORPORATION

By: /s/ Stephen J. Riney
Name: Stephen J. Riney
Title: Executive Vice President and Chief Financial Officer

APA CORPORATION

By: /s/ Stephen J. Riney
Name: Stephen J. Riney
Title: Executive Vice President and Chief Financial Officer

APA MERGER SUB, INC.

By: /s/ Stephen J. Riney
Name: Stephen J. Riney
Title: Executive Vice President and Chief Financial Officer

Exhibit A

Certificate of Merger

See attached.

Exhibit A to Agreement and Plan of Merger – March 1, 2021

CERTIFICATE OF MERGER

OF

APA MERGER SUB, INC.,

WITH AND INTO

APACHE CORPORATION

Pursuant to Section 251 of the General Corporation Law of the State of Delaware ("DGCL"), the undersigned corporation hereby certifies that:

FIRST: The name and state of incorporation of each of the constituent corporations to the merger are as follows:

Name	State of Incorporation
Apache Corporation	Delaware
APA Merger Sub, Inc.	Delaware

SECOND: The Agreement and Plan of Merger, dated as of March 1, 2021 (the "Merger Agreement"), by and among Apache Corporation, APA Corporation, and APA Merger Sub, Inc., has been approved, adopted, executed, and acknowledged by each of the constituent corporations in accordance with Sections 251(c) and 251(g) of the DGCL (and, with respect to APA Merger Sub, Inc., by the written consent of its sole stockholder in accordance with Section 228 of the DGCL).

THIRD: The name of the surviving corporation is Apache Corporation.

FOURTH: The certificate of incorporation of the surviving corporation as in effect immediately prior to the merger shall be amended and restated in its entirety at the effective time of the merger as set forth in ANNEX A attached hereto and, as so amended and restated, shall be the certificate of incorporation of the surviving corporation until thereafter amended as provided therein or by applicable law.

FIFTH: The executed Merger Agreement is on file at the principal place of business of the surviving corporation at the following address:

2000 Post Oak Boulevard, Suite 100
Houston, TX 77056-4400

SIXTH: A copy of the Merger Agreement will be furnished by the surviving corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: This Certificate of Merger shall become effective immediately upon the filing of this Certificate of Merger with the Office of the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, this Certificate of Merger has been executed on the 1st day of March, 2021.

APACHE CORPORATION

By: _____
Name: Rajesh Sharma
Title: Corporate Secretary

ANNEX A

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

APACHE CORPORATION

FIRST. The name of the corporation is APACHE CORPORATION.

SECOND. The Registered Office in the state of Delaware is located at the Corporation Trust Center, 1209 Orange Street, in the county of New Castle, Wilmington, Delaware 19801. The Registered Agent at that address is The Corporation Trust Company.

THIRD. The purpose of the Apache Corporation (the "Corporation") is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "DGCL").

FOURTH. The total number of shares of all classes of stock that the Corporation shall have authority to issue is 1,000 shares of common stock having the par value of $0.625 per share ("Common Stock").

A holder of shares of Common Stock shall be entitled to one vote for each and every share of Common Stock standing in such holder's name in the books of the Corporation.

FIFTH. The number of directors shall be fixed from time to time exclusively by the Board of Directors of the Corporation pursuant to a resolution adopted by a majority of the directors then in office.

Each director shall hold office until such director's successor is duly elected and qualified or until such director's earlier death, resignation, disqualification, disability or removal.

In furtherance and not in limitation of the powers conferred upon it by law, the Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal the bylaws of the Corporation.

SIXTH. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

SEVENTH. To the fullest extent permitted by the DGCL as it presently exists or may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or to its stockholders for monetary damages for any breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. Neither the amendment nor repeal of this Article SEVENTH, nor the adoption of any provision of the Certificate of Incorporation inconsistent with this Article SEVENTH, shall eliminate or reduce the effect of this Article SEVENTH, in respect to any matter occurring, or any cause of action, suit or claim that, but for this Article SEVENTH would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

EIGHTH. Any act or transaction by or involving the Corporation, other than the election or removal of directors of the Corporation, that requires for its adoption under the DGCL or this Certificate of Incorporation the approval of the stockholders of the Corporation shall, in accordance with Section 251(g) of the DGCL, require, in addition, the approval of the stockholders of APA Corporation (or any successor thereto by merger), by the same vote as is required by the DGCL and/or this Certificate of Incorporation.

Exhibit B

Surviving Corporation Bylaws

See attached.

Exhibit B to Agreement and Plan of Merger – March 1, 2021

AMENDED AND RESTATED BYLAWS

OF APACHE CORPORATION

(March 1, 2021)

ARTICLE I.

NAME OF CORPORATION

The name of the corporation is Apache Corporation.

ARTICLE II.

OFFICES

SECTION 1. The principal office of the corporation shall be in the City of Wilmington, County of New Castle, State of Delaware, and the name of its resident agent in charge thereof is The Corporation Trust Company.

SECTION 2. The corporation may have such other offices either within or without the State of Delaware as the board of directors may designate or as the business of the corporation may from time to time require.

ARTICLE III.

SEAL

The corporate seal shall have inscribed upon it the name of the corporation and other designations as the board of directors from time to time determine. There may be alternate seals of the corporation.

ARTICLE IV.

MEETINGS OF STOCKHOLDERS

SECTION 1. PLACE OF MEETINGS. All meetings of the stockholders of the corporation shall be held at the office of the corporation in the City of Houston, Texas, or at any other place within or without the State of Delaware, or by means of remote communication, that shall be stated in the notice of the meeting.

SECTION 2. ANNUAL MEETINGS. The annual meeting of the stockholders for the election of directors and for the transaction of such other business as may properly come before the meeting in accordance with these bylaws shall be held at such date, time, and place, if any, as shall be determined by the board of directors and stated in the notice of the meeting.

SECTION 3. SPECIAL MEETINGS OF THE STOCKHOLDERS. Special meetings of the stockholders may be called at any time and for any purpose or purposes by (i) the chairman of the board or the chief executive officer, (ii) the chairman of the board, the chief executive officer or the secretary of the corporation at the request of a majority of the board of directors, or (iii) the chairman of the board or the secretary of the corporation at the request of stockholders holding a majority of the corporation's outstanding shares of Common Stock (as hereinafter defined), or as otherwise authorized by statute, the Certificate of Incorporation or these bylaws.

SECTION 4. NOTICE OF MEETINGS. Except as otherwise required by statute, written notice of each meeting of the stockholders, whether annual or special, shall be given to each stockholder of record entitled to vote at the meeting, not less than ten nor more than sixty days before the date of the meeting, either personally or by mail in a postage-prepaid envelope addressed to such stockholder at such stockholder's address as it appears on the stock ledger of the corporation. Every notice of a meeting of stockholders shall state the place, date and hour of the meeting. Notice of special meetings shall state the purpose(s) for which the meeting is called. Any stockholder may, prior to, at the meeting or subsequent thereto, waive notice of any meeting in writing signed by such stockholder or such stockholder's duly appointed attorney-in-fact.

SECTION 5. QUORUM AND VOTING. Except as otherwise required by law or by the Certificate of Incorporation, the presence at meetings, in person or by duly authorized proxy, of the holders of a majority of the outstanding shares of the corporation's common stock, par value $0.625 per share (the "Common Stock"), entitled to vote thereat shall constitute a quorum for the transaction of business, and the vote, in person or by proxy, of the holders of a majority of the shares constituting such quorum shall be binding upon all stockholders of the corporation. In the absence of a quorum, the meeting may be adjourned for not more than 30 days, by a majority of the voting shares present; no notice of an adjourned meeting need be given.

SECTION 6. VOTING BY CORPORATIONS. Shares standing in the name of a corporation may be voted or represented on behalf of such corporation by the chairman of the board, chief executive officer, president, any executive vice president, senior vice president or vice president, the secretary or any assistant secretary of such corporation or by any other person authorized to do so by a proxy or power of attorney executed by any such officer or by authority of the board of directors of such corporation.

SECTION 7. CONSENTS IN LIEU OF VOTING. Any action of the stockholders of the corporation required or permitted to be taken at a meeting of the stockholders may be taken without a meeting, without prior notice, and without a vote if a written consent setting forth the action so taken shall be signed by all the stockholders having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon are present and voted.

ARTICLE V.

DIRECTORS

SECTION 1. GENERAL POWERS. The property, business and affairs of the corporation shall be managed by its board of directors which may exercise all powers of the corporation and do all lawful acts and things as are not by statute or by the Certificate of Incorporation or by these bylaws directed or required to be exercised or done by the stockholders.

SECTION 2. NUMBER, TENURE AND QUALIFICATIONS. The number of directors shall be fixed from time to time exclusively by the board of directors pursuant to a resolution adopted by a majority of the directors then in office, but may not be less than one. At each annual meeting of the stockholders at which a quorum is present, each director shall be elected by the vote of a majority of the votes cast representing shares present in person or by proxy and entitled to vote at the meeting. Each director shall hold office until the next annual meeting of the stockholders and, thereafter, until such director's successor is duly elected and qualified or until such director's earlier death, resignation, disqualification, disability or removal.

SECTION 3. VACANCIES AND NEWLY CREATED DIRECTORSHIPS. Any vacancies on the board of directors not caused by removal may be filled by the vote of a majority of the directors then in office, although less than a quorum. Any vacancies caused by removal and any newly created directorships shall be filled by the stockholders, at either an annual or special meeting.

SECTION 4. MEETINGS. The directors of the corporation may hold their meetings, both regular and special, at a place or places within or without the State of Delaware that the board of directors may from time to time determine. Regular meetings of the board of directors may be held without notice at the time and place that shall from time to time be determined by the board of directors. Special meetings of the board of directors may be called by either (i) the chairman of the board or the chief executive officer or (ii) the chairman of the board, the chief executive officer, or the secretary of the corporation upon the written request of two directors, in each case, on three days' notice to each director, either personally or by mail, electronic mail, facsimile or other lawful means.

SECTION 5. QUORUM. At all meetings of the board of directors, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting, at which there is a quorum present, shall be the act of the board of directors, except as may be otherwise specifically provided by statute, the Certificate of Incorporation or these bylaws. If at any meeting of the board of directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time without notice, other than by announcement at the meeting, until a sufficient number of directors to constitute a quorum shall attend. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting as originally notified.

SECTION 6. TELEPHONE CONFERENCE OR SIMILAR MEETING. Members of the board of directors or of any committee elected or appointed by the board of directors may participate in a meeting of the board of directors or such committee, as the case may be, by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 6 shall constitute presence in person at such meeting.

SECTION 9. ACTION WITHOUT MEETING. Any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting, if prior to the action a written consent thereto is signed by all members of the board of directors or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the board of directors or such committee.

SECTION 7. CHAIRMAN OF THE BOARD. The board of directors shall, at its first meeting after each annual meeting of the stockholders, or as often as may be required, elect a chairman of the board. The chairman of the board shall preside at all meetings of the stockholders and of the board of directors at which he or she may be present, and shall have such other powers and duties as he or she may be called upon by the board of directors to perform. In the absence of the chairman of the board, the chief executive officer shall preside at any meetings of the stockholders and of the board of directors, and in the absence of the chief executive officer, the directors present shall elect any director to so preside.

SECTION 7. COMPENSATION OF DIRECTORS. Directors of the corporation shall receive the compensation for their services that the board of directors may from time to time determine, and all directors shall be reimbursed for their expenses of attendance at each regular or special meeting of the board or any committee thereof.

SECTION 8. COMMITTEES. The board of directors may, by resolution passed by a majority of the board, designate one or more committees. Each such committee shall consist of one or more of the directors of the corporation, such number to be set by resolution of the board of directors. Any committee, to the extent provided in the resolution, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it. Each committee shall have the name that may be determined from time to time by resolution adopted by the board of directors. Records shall be kept of the acts and proceedings of each committee, and the same shall be reported from time to time to the board of directors.

ARTICLE VI.

OFFICERS

SECTION 1. OFFICERS. The officers of the corporation shall be (a) a chief executive officer, president, one or more executive vice presidents, a secretary, controller, and treasurer, all as the board of directors may provide for and elect from time to time and (b) one or more senior vice presidents, vice presidents, and such assistant vice presidents, assistant secretaries, assistant treasurers, and assistant controllers as the chief executive officer may appoint or as the board of directors may elect from time to time. Any two or more offices may be held by the same person. The board of directors may appoint such other officers as they shall deem necessary, who shall have the authority and shall perform the duties that from time to time may be prescribed by the board of directors. In its discretion, the board of directors by a vote of a majority thereof may leave unfilled for any period that it may fix by resolution any office except those of president, treasurer, and secretary. The board of directors may designate a chief financial officer and a chief accounting officer from among the officers elected by the board. The chief financial officer shall be the corporation’s principal financial officer and the chief accounting officer shall be the corporation’s principal accounting officer for purposes of the Securities Exchange Act of 1934, as amended.

SECTION 2. TENURE. The officers of the corporation shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the board of directors may be removed at any time by the affirmative vote of a majority of the board of directors. Any officer appointed by the chief executive officer may be removed at any time by the chief executive officer or by the affirmative vote of a majority of the board of directors.

SECTION 3. VACANCIES. If the office of any officer of the corporation elected by the board of directors becomes vacant by reason of death, resignation, disqualification or otherwise, the directors by a majority vote, may choose his successor or successors.

SECTION 4. RESIGNATION. Any officer may resign his office at any time, such resignation to be made in writing and take effect at the time of receipt by the corporation, unless some time be fixed in the resignation and then from that time. The acceptance of a resignation shall not be required to make it effective.

SECTION 5. DELEGATION OF DUTIES. Duties of officers may be delegated in case of the absence of any officer of the corporation or for any reason that the board of directors may deem sufficient. The board of directors may delegate the powers or duties of the officer to any other officer or to any director, except as otherwise provided by statute, for the time being, provided a majority of the entire board of directors concurs therein.

SECTION 6. CHIEF EXECUTIVE OFFICER. The chief executive officer shall be the chief executive officer of the corporation and shall have, subject to the direction of the board of directors, general control and management of the corporation's business and affairs and shall also see that all the policies and resolutions of the board of directors are carried into effect, subject, however, to the right of the board of directors to delegate any specific powers, except such as may be by statute exclusively conferred on the president or to any other officer or officers of the corporation. The chief executive officer shall preside at all meetings of stockholders and the board of directors at which he or she may be present and from which the chairman of the board may be absent.

SECTION 7. PRESIDENT. The president shall perform those duties that shall be specifically assigned from time to time by the chief executive officer or the board of directors. In the absence of the chief executive officer or in the event of the chief executive officer's death, inability or refusal to act, the president shall perform the duties of the chief executive officer, and when so acting shall have the powers of and be subject to all the restrictions upon the chief executive officer.

SECTION 8. EXECUTIVE VICE PRESIDENTS, SENIOR VICE PRESIDENTS, AND VICE PRESIDENTS. In the absence of the president or in the event of the president's death, inability or refusal to act, the senior executive vice president present shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. In the absence of the president and all executive or senior vice presidents, or in the event of their deaths, inability or refusal to act, a vice president designated by the board of

directors, or in case the board of directors has failed to act, designated by the chief executive officer, shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president. The executive vice presidents, the senior vice presidents, and all other vice presidents shall perform those duties consistent with these bylaws and that may be specifically designated by the chief executive officer, the president, or the board of directors.

SECTION 9. SECRETARY. The secretary shall attend and keep all the minutes of all meetings of the board of directors and all meetings of the stockholders and, when requested by the board of directors, of any committees of the board of directors. The secretary shall (a) give, or cause to be given, notice of all meetings of the stockholders and board of directors and when so ordered by the board of directors, shall affix the seal of the corporation thereto, (b) have charge of all of those books and records that the board of directors may direct, all of which shall, at all reasonable times, be open to the examination of any director at the office of the corporation during business hours, (c) in general, perform all of the duties incident to the office of secretary subject to the control of the board of directors, the chief executive officer, or the president, under whose supervision the secretary shall be, and (d) do and perform any other duties that may from time to time be assigned by the board of directors.

SECTION 10. TREASURER. The treasurer shall have custody of and be responsible for all funds and securities of the corporation, receive and give receipts for money due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in those banks or depositories that shall be selected and designated by the board of directors and shall in general perform all of the duties incident to the office of treasurer and any other duties that may be assigned from time to time by the chief financial officer, the president, the chief executive officer, or the board of directors. If required by the board of directors, the treasurer shall give bond for the faithful discharge of his or her duties in the sum and with the surety or sureties as the board of directors shall determine.

SECTION 11. CONTROLLER. The controller shall maintain adequate records of all assets, liabilities and transactions of the corporation; see that adequate audits thereof are currently and regularly made; and, in conjunction with other officers and department heads, initiate and enforce measures and procedures whereby the business of the corporation shall be conducted with the maximum safety, efficiency and economy. Except as otherwise determined by the board of directors, or lacking a determination by the board of directors, then by the president, the controller’s duties and powers shall extend to all subsidiary corporations and, so far as may be practicable, to all affiliate corporations. The controller shall have any other powers and perform other duties that may be assigned from time to time by the chief executive officer, the president, the chief financial officer, or the board of directors. If required by the board of directors, the controller shall give bond for the faithful discharge of his or her duties in the sum and with the surety or sureties as the board of directors shall determine.

ARTICLE VII.

INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS

SECTION 1. RIGHT TO INDEMNIFICATION.

A. PROCEEDINGS BY THIRD PARTIES. The board of directors shall cause the corporation to indemnify and hold harmless, to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), any person (and that person's heirs and personal representatives) who was or is a party or is threatened or expected to be made a party to any threatened, pending, or completed action, suit, arbitration, alternative dispute resolution procedure, investigation, or other threatened, actual, or completed proceeding, whether civil, criminal, administrative, investigative, or private in nature and irrespective of the initiator thereof, including any appeal of any such proceeding (each, a "Proceeding") (other than a Proceeding by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, partner, or agent of another corporation, partnership (including a partnership in which the corporation is a partner), limited liability company, joint venture, trust, non-profit entity, including service with respect to employee benefit plans, or other entity or enterprise (in such capacity, an "Authorized Person"), against any and all Expenses (as hereinafter defined), judgments, damages, arbitration awards, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such Proceeding, including any interest payable thereon, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal Proceeding, had no reasonable cause to believe his conduct was unlawful.

B. PROCEEDINGS BY OR IN THE RIGHT OF THE CORPORATION. The board of directors shall indemnify and hold harmless any person (and that person's heirs and personal representatives) who was or is a party or is threatened or expected to be made a party to any Proceeding by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was an Authorized Person against Expenses actually and reasonably incurred by him in connection with the defense or settlement of such Proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation; provided, however, that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the Court of Chancery of the State of Delaware shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of the State of Delaware shall deem proper.

SECTION 2. EXPENSES.

A. REIMBURSEMENT OF EXPENSES. To the extent that an Indemnitee (as hereinafter defined) has been successful on the merits or otherwise in defense of any Proceeding, or in defense of any claim, issue, or matter therein, he shall be indemnified against Expenses actually and reasonably incurred by him in connection therewith.

B. ADVANCEMENT OF EXPENSES TO DIRECTORS AND OFFICERS. The board of directors shall cause the corporation to advance to any Indemnitee who is or was a director or officer of the corporation the Expenses incurred by such Indemnitee, from time to time, in defending a Proceeding, in each case, within ten (10) calendar days after the corporation's receipt of a statement from such Indemnitee requesting an advance, whether prior to or after final disposition of the applicable Proceeding; provided, however, that the corporation will have no obligation to advance Expenses if such advance will be in violation of applicable law. Each such statement must include an undertaking by or on behalf of that Indemnitee to repay any Expenses advanced if it is ultimately determined that the Indemnitee is not legally entitled to indemnification by the corporation and shall specifically state that no bond, collateral, or other security shall be required by such officer or director to insure his performance and that no interest on any amount advanced shall be required to be paid to the corporation if the officer or director is determined ultimately to be not legally entitled to indemnification by the corporation. The corporation will accept any such undertaking without reference to the financial ability of Indemnitee to make repayment.

C. ADVANCEMENT OF EXPENSES TO EMPLOYEES AND AGENTS. The board of directors shall cause the corporation to advance to any Indemnitee who is not a present or past director or officer of the corporation the Expenses incurred by such Indemnitee, from time to time, in defending a Proceeding, in each case, in advance of the final disposition of such Proceeding; provided, however, that any such advance shall be conditional upon evidence of compliance with the terms and conditions, if any, deemed appropriate and specified by the board of directors for such advance if it is ultimately determined that such Indemnitee is not legally entitled to indemnification by the corporation.

D. EXPENSES INCURRED IN ENFORCING RIGHTS. The board of directors shall cause the corporation to advance to any Indemnitee, in accordance with this Section 2, all Expenses incurred by such Indemnitee in enforcing his rights to indemnification and/or advancement of Expenses under this Article VII, including Expenses incurred in preparing and forwarding statements to the corporation to support the advances claimed, whether or not such Indemnitee is successful in enforcing such rights and whether or not Proceedings are commenced.

SECTION 3. DETERMINATION OF ENTITLEMENT TO INDEMNFICATION.

A. PROCEDURE. Any indemnification hereunder (unless ordered by the Court of Chancery of the State of Delaware) shall be made by the corporation upon a determination that indemnification is proper under the circumstances because the Indemnitee has met the applicable standard of conduct set forth in this Article VII. All such determinations shall be made by the board of directors within 30 calendar days after the corporation receives a statement from an Indemnitee requesting indemnification in respect of a Proceeding under this Article VII.

Notwithstanding the foregoing, with respect to an Indemnitee who is or was a director or officer of the corporation, such determination shall be made: (i) by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum, or (ii) by a committee of directors designated by majority vote of such Disinterested Directors, even though less than a quorum, or (iii) if there are no Disinterested Directors, or if such Disinterested Directors so direct, in writing by Independent Counsel (as hereinafter defined); provided, however, that, if a Change of Control (as hereinafter defined) shall have occurred, then such determination shall be made in writing by Independent Counsel. The corporation shall promptly inform the Indemnitee in writing of a determination under this subsection regarding the propriety of indemnification.

B. PRESUMPTIONS. In making a determination with respect to the entitlement of any Indemnitee to indemnification under this Article VII, the Indemnitee shall be presumed to be entitled to such indemnification upon submission to the corporation of a statement requesting indemnification in respect of such Proceeding under this Article VII. The presumption shall be used by the person or persons determining entitlement to indemnification as a basis for such determination, unless the corporation provides information sufficient to overcome such presumption by clear and convincing evidence. Furthermore, the termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person (i) did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation and (ii) with respect to any criminal Proceeding, had reasonable cause to believe that his conduct was unlawful.

C. PAYMENTS. If it is determined that any Indemnitee is entitled to indemnification under this Article VII, then the corporation shall thereafter, on written request by such Indemnitee, pay to such Indemnitee, within ten (10) calendar days after the corporation’s receipt of such request, such amounts theretofore incurred by or on behalf of such Indemnitee in respect of which such Indemnitee is entitled to that indemnification by reason of that determination.

D. EXPENSES. Any Indemnitee shall be entitled to be indemnified against the Expenses actually and reasonably incurred by such Indemnitee in cooperating with the person or persons making the determination of entitlement to indemnification (irrespective of the determination as to the Indemnitee’s entitlement to indemnification) and, to the extent successful, in connection with any Proceeding with respect to the determination of such Indemnitee’s entitlement to indemnification or the enforcement thereof.

SECTION 4. INDEMNIFICATION FUND. The board of directors, in its sole discretion, may establish and may fund in advance and from time to time, in whole or in part, a separate provision or provisions, which may be in the form of a trust fund, periodic or advance retainers to counsel, or otherwise as the board of directors may determine in each instance, to be used as payment and/or advances of indemnification obligations under this Article VII; provided, however, that any amount which is contributed to such fund shall not in any way be construed to be a limitation on the amount of indemnification and/or advances of the corporation.

SECTION 5. INSURANCE. The corporation may maintain insurance, at its expense, to protect itself and any Indemnitee who is or was a director or officer of the corporation against any expenses, liabilities, or losses, whether or not the corporation would have the power to indemnify

such person against such expenses, liabilities, or losses under the General Corporation Law of the State of Delaware; provided, however, that, for a period of six (6) years after any Change of Control, the corporation shall maintain, at its expense, policies of directors' and officers' liability insurance providing coverage at least comparable to and in the same amounts as that provided by any such policies in effect immediately prior to such Change of Control.

SECTION 6. CONTRIBUTION. If it is determined that any Indemnitee is entitled to indemnification under this Article VII, but that right is unenforceable by reason of any applicable law or public policy, then, to the fullest extent applicable law permits, the corporation, in lieu of indemnifying or causing the indemnification of such Indemnitee, shall contribute or cause to be contributed to the amount that such Indemnitee has incurred, whether for judgments, fines, penalties, excise taxes, amounts paid, or to be paid in settlement or for Expenses reasonably incurred, in connection with the applicable Proceeding, in such proportion as is deemed fair and reasonable in light of all the circumstances of such Proceeding in order to reflect: (i) the relative benefits that such Indemnitee and the corporation have received as a result of the event(s) or transaction(s) giving rise to the Proceeding or (ii) the relative fault of such Indemnitee and of the corporation in connection with those event(s) or transaction(s).

SECTION 7. MISCELLANEOUS.

A. NO CONDITIONS OR LIMITATIONS. Except as expressly set forth in this Article VII or required by applicable law, there shall be no conditions or limitations on an Indemnitee's rights to indemnification or advancement of Expenses hereunder.

B. AMENDMENTS. Any amendment to this Article VII shall only apply prospectively and shall in no way affect the corporation's obligations to indemnify and make advances to any Indemnitee as set forth in this Article VII for actions or events which occurred before any such amendment, and provided that any amendment to this Article VII shall require the unanimous vote of the board of directors.

C. NON-EXCLUSIVITY. The rights to indemnification and advancement of Expenses and the remedies this Article VII provides are not and will not be deemed exclusive of any other rights or remedies to which any Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, any agreement, a vote of the corporation's stockholders or Disinterested Directors, or otherwise, but each such right or remedy under this Article VII will be cumulative with all such other rights and remedies.

D. EQUIVALENCE TO CONTRACTUAL RIGHTS. The rights to indemnification and advancement of Expenses and the remedies this Article VII provides shall be considered the equivalent of a contract right that vests upon the occurrence or alleged occurrence of any act or omission that forms the basis for or is related to the claim for which indemnification is sought by an Indemnitee, to the same extent as if the provisions of this Article VII were set forth in a separate, written contract between such Indemnitee and the corporation.

E. DETRIMENTAL RELIANCE. Any person who at any time on or after the adoption of this Article VII serves or has served in any of the capacities indicated in this Article VII shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein.

F. NO IMPUTATION OF KNOWLEDGE OR CONDUCT. For purposes of making a determination under this Article VII with respect to whether any Indemnitee is entitled to indemnification, neither the knowledge nor the conduct of any other director, officer, manager, administrator, employee, agent, representative, or other functionary of the corporation shall be imputed to such Indemnitee.

G. FORUM, JURISDICTION, AND VENUE. Each Indemnitee, by seeking any indemnification or advancement of Expenses under this Article VII, shall be deemed: (i) to have agreed that any proceeding arising out of or in connection with this Article VII must be brought only in the Court of Chancery of the State of Delaware and not in any other state or federal court in the United States of America or any court in any other country, (ii) to have consented to submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware for purposes of any proceeding arising out of or in connection with this Article VII, (iii) to have waived any objection to the laying of venue of any such proceeding in the Court of Chancery of the State of Delaware, and (iv) to have waived, and to have agreed not to plead or to make, any claim that any such proceeding brought in the Court of Chancery of the State of Delaware has been brought in an improper or otherwise inconvenient forum.

SECTION 8. DEFINITIONS. For purposes of this Article VII:

(1) “Affiliate” has the meaning ascribed to such term in Rule 12b-2 of the Securities Exchange Act of 1934, as amended.

(2) “Change of Control” means (i) any individual, entity, or group (including within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended) (a “person”) becomes the beneficial owner (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended) of 20% or more of either (a) the then-outstanding shares of common stock of the corporation (the “Outstanding Common Stock”) or (b) the combined voting power of the then-outstanding voting securities of the corporation entitled to vote generally in the election of directors (the “Outstanding Voting Securities”); provided, however, that, for purposes of this Article VII, the following acquisitions shall not constitute a Change of Control: (I) any acquisition of Outstanding Common Stock or Outstanding Voting Securities directly from the corporation that is approved by the Incumbent Board (as hereinafter defined), (II) any acquisition of Outstanding Common Stock or Outstanding Voting Securities by the corporation, (III) any acquisition of Outstanding Common Stock or Outstanding Voting Securities by any employee benefit plan (or related trust) sponsored or maintained by the corporation or any Affiliate thereof, or (IV) any acquisition of Outstanding Common Stock or Outstanding Voting Securities in a transaction that is part of a Business Combination that complies with clauses (iii)(a), (iii)(b), and (iii)(c) of this definition; (ii) individuals who, as of October 28, 2019, constitute the board of directors (the “Incumbent Board”) cease for any reason to constitute at least a majority of the board of directors; provided, however, that any individual becoming a director subsequent to October 28, 2019 whose election, or nomination for election, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual was a member of the Incumbent Board, but

excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the board of directors; (iii) consummation of a reorganization, merger, statutory share exchange, or consolidation or similar transaction involving the corporation, a sale or other disposition of all or substantially all of the assets of the corporation (including by sale, reorganization, merger, statutory share exchange, or consolidation or similar transaction involving the shares of all or substantially all of the corporation's subsidiaries), or the acquisition of assets or securities of another entity by the corporation or any of its subsidiaries (each, a "Business Combination"), in each case, unless, following such Business Combination, (a) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Common Stock and the Outstanding Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the corporation or all or substantially all of the corporation's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination, and (b) no person (excluding any entity resulting from such Business Combination or any employee benefit plan (or related trust) of the corporation or such entity resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of, respectively, the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) of the entity resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such entity, except to the extent that such ownership existed prior to the Business Combination, and (c) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement and at the time of the action of the board of directors providing for such Business Combination; or (iv) approval by the stockholders of the corporation of a complete liquidation or dissolution of the corporation.

(3) "Disinterested Director" means, with respect to any Proceeding in respect of which indemnification is sought by an Indemnitee under this Article VII, a director of the corporation who is not and was not (i) a party to such Proceeding, (ii) a party to any claim for damages, or to any declaratory, equitable, or other substantive remedy, or to any other issue or matter in such Proceeding or Proceeding therein or related thereto, and (iii) during the last ten (10) years an Affiliate of such Indemnitee.

(4) "Expenses" include all attorneys' fees, expert fees, witness fees, bonds, prospective and retrospective insurance premiums or costs, litigation, appeal and court costs, including, without limitation, retainers, transcript costs, and travel expenses, and all other disbursements and expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding, including any interest payable thereon. Should any payments by the corporation to or for the account of any Indemnitee under this Article VII be determined to

be subject to any federal, state, or local income or excise tax, “Expenses” also include such amounts as are necessary to place the Indemnitee in the same after-tax position, after giving effect to all applicable taxes, that such Indemnitee would have been in had no such tax been determined to apply to those payments.

(5) “Indemnitee” means any Authorized Person making a claim for indemnification or advancement of Expenses under this Article VII.

(6) “Independent Counsel” means a law firm that is experienced in matters of corporation law and neither presently is, nor in the ten (10) years previous to its selection or appointment has been, retained to represent: (i) the corporation, the Indemnitee, or any of their respective Affiliates; (ii) any other party to the Proceeding giving rise to a claim for indemnification; or (iii) any direct or indirect beneficial owner of securities of the corporation representing 20% or more of the combined voting power of the corporation’s then outstanding voting securities. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any law firm or person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the corporation or the Indemnitee in an action to determine the Indemnitee’s rights to indemnification under these bylaws.

ARTICLE VIII.

VOTING OF STOCK OF OTHER CORPORATIONS

Unless otherwise ordered by the board of directors, the chief executive officer, the president, each executive vice president, and each senior vice president shall have full power and authority on behalf of the corporation to act and vote at any meeting of stockholders of any corporation in which the corporation may hold stock, and at any such meeting, shall possess, and may exercise, any and all of the rights and powers incident to the ownership of the stock, which, as the owner thereof, the corporation might have possessed and exercised if present. The board of directors by resolution from time to time, may confer like powers upon any other person or persons.

ARTICLE IX.

WAIVER OF NOTICE

Whenever any notice whatever is required to be given pursuant to the provisions of a statute, the Certificate of Incorporation or these bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE X.

STOCK CERTIFICATES

SECTION 1. CERTIFICATED AND UNCERTIFICATED SHARES. Shares of the capital stock of the corporation may be certificated or uncertificated, as provided by the laws of the State of Delaware. The certificates for shares of the capital stock of the corporation shall be in the form, not inconsistent with the Certificate of Incorporation, that shall be approved by the board of

directors. The certificate shall be signed by the chairman of the board, chief executive officer, president or a vice president, and either the treasurer or an assistant treasurer, or the secretary or an assistant secretary, but where the certificate is signed by a transfer agent or an assistant transfer agent and a registrar, the signatures of the chairman of the board, chief executive officer, president, vice president, treasurer, assistant treasurer, secretary or assistant secretary may be facsimiles. All certificates shall be consecutively numbered, and the name of the person owning the shares represented thereby, with the number of shares and the date of issue shall be entered in the corporation's books. No certificate shall be valid unless it is signed by the chairman of the board, chief executive officer, president, or a vice president, and either the treasurer or an assistant treasurer, or the secretary or an assistant secretary, but where the certificate is signed by a transfer agent or an assistant transfer agent and a registrar, the signatures of the chairman of the board, chief executive officer, president, vice president, treasurer, assistant treasurer, secretary or assistant secretary may be facsimiles. All certificates surrendered to the corporation shall be canceled, and no new certificates shall be issued until the former certificate for the same number of shares of the same class shall have been surrendered and canceled.

SECTION 2. TRANSFER OF SHARES. Shares of the capital stock of the corporation shall be transferred only on the books of the corporation by the holder thereof in person or by his attorney and, in the case of certificated shares, upon surrender and cancellation of certificates for the same number of shares.

SECTION 3. REGULATIONS. The board of directors shall have authority to make any rules and regulations that they may deem expedient concerning the issue, transfer and registration of certificates for shares of the capital stock of the corporation. The board of directors may appoint one or more transfer agents or assistant transfer agents and one or more registrars of transfers and may require all certificates to bear the signature of the transfer agent or assistant transfer agent and a registrar of transfers. The board of directors may at any time terminate the appointment of any transfer agent or any assistant transfer agent or any registrar of transfers by the vote of a majority of the board of directors.

SECTION 4. LOST CERTIFICATES. The board of directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost or destroyed, upon the making of an affidavit of that fact with the person claiming the certificate of stock to be lost or destroyed. When authorizing the issue of a new certificate or certificates, the board of directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of the lost or destroyed certificate or certificates, or his legal representative, to advertise the same in a manner that it shall require for each share of stock having voting power registered in his name and to give the corporation a bond in the sum that it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost or destroyed.

ARTICLE XI.

GENERAL PROVISIONS

SECTION 1. FISCAL YEAR. The fiscal year of the corporation shall begin on the first day of January in each year.

SECTION 2. INSPECTION OF BOOKS. The board of directors shall determine from time to time whether, and if allowed, when and under what conditions and regulations, the accounts and books of the corporation (except as may be by statute specifically open to inspection) or any of them, shall be open to the inspection of the stockholders, and a stockholder's rights in this respect are, and shall be, restricted and limited accordingly.

SECTION 3. CHECKS, NOTES, DRAFTS, ETC. All checks, notes, drafts, or other orders for the payment of money of the corporation shall be signed, endorsed, or accepted in the name of the corporation by such officer, officers, person, or persons as from time to time may be designated by the board of directors or by an officer or officers authorized by the board of directors to make such designation.

ARTICLE XII.

AMENDMENTS

The holders of a majority of the outstanding shares of the corporation may adopt, alter or repeal the bylaws of the corporation and, subject to the right of the stockholders, the board of directors, by majority vote, may adopt, alter or repeal the bylaws of the corporation.

*** * ***

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

APA CORPORATION

APA CORPORATION, a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the corporation is APA Corporation. The date of filing of its original Certificate of Incorporation with the Secretary of State was the 7th day of January, 2021.

2. This Amended and Restated Certificate of Incorporation was duly adopted in accordance with Section 242 and 245 of the General Corporation Law of the State of Delaware, and restates, integrates, and further amends the provisions of the Corporation's Certificate of Incorporation.

3. The Certificate of Incorporation, as amended or supplemented heretofore, is hereby amended and restated in its entirety to read in full as follows:

FIRST. The name of the corporation is APA Corporation.

SECOND. The Registered Office in the state of Delaware is located at the Corporation Trust Center, 1209 Orange Street, in the county of New Castle, Wilmington, Delaware 19801. The Registered Agent at that address is The Corporation Trust Company.

THIRD. The nature of the business, or objects or purposes to be transacted, promoted or carried on are: To engage in the leasing as principal, trustee, agent and/or nominee of lands believed to contain petroleum, oils, and gas; the improving, mortgaging, leasing, assigning, and otherwise disposing of the same; the prospecting, drilling, pumping, piping, storing, refining, and selling, both at wholesale and retail, of oils and gas; the buying, otherwise acquiring, selling, and otherwise disposing of any and all real estate and personal property for use in the business of the company; the construction of any and all buildings, pipe lines, pumping stations, and storage tanks, and any and all other buildings required in carrying on the business of the company; the acting as trustee or agent for holders of oil lands in the receiving and disbursement of funds to be used in drilling for the common benefit of the land holders.

To buy, acquire, sell, retain, deal in, or otherwise dispose of absolutely or contingently, petroleum and/or gas properties and interests (whether like or different), and any right, title, or interest therein.

To purchase, sell and own royalties in oil and gas lands and leases; to pay mortgages, notes, taxes, assessments, and other charges that are or may become a lien or charge against any lands or leases in which this company may have a royalty interest.

To engage in the purchasing, leasing or otherwise acquiring, owning, holding, operating, developing, mortgaging, pledging, exchanging, selling, transferring, or otherwise disposing of, and investing, trading or dealing in real and personal property of every kind and description or any interest therein; the acting as trustee or agent for holders of interests in such real and personal property in the receiving and disbursement of funds to be used in connection therewith.

To act as agent for others in purchasing, selling, renting and managing real estate and leasehold or other interests therein; in negotiating loans on real estate and leasehold or other interests therein, in lending money secured by bonds or notes secured by mortgages or trust deeds on such real estate or leasehold or other interest therein, or on the mortgage bonds of industrial or railroad companies or of any public service corporation, or on any state, municipal or quasi-municipal bonds, or in the buying, selling, pledging, mortgaging or otherwise dealing in any such securities, and to act as trustee in connection with any of the foregoing securities.

To carry on the business of a telephone, telegraph, radio, television, electrical light, heat and power, natural gas heat and power, and/or water supply company, and in establishing, working, managing, controlling and regulating exchanges and works for the supply and transmission of telephone, telegraph, radio and television impulses, and for the supply of electric light, heat and power, natural gas heat and power, and/or water for public or private purposes, use and consumption.

To engage in the underwriting, buying, selling and rediscounting of notes, drafts, bills of exchange, stocks, bonds, securities and chooses in action as a broker and dealer in securities.

To acquire, and pay for in cash, stock or bonds of this Corporation or otherwise, the good will, rights, assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.

To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of letters patent of the United States or any foreign country, patent rights, licenses, franchises and privileges, inventions, improvements and processes, copyrights, trademarks and trade names, relating to or useful in connection with any business of this corporation.

To acquire by purchase, subscription, participation, or otherwise, and to receive, hold, own, guarantee, sell, assign, exchange, transfer, mortgage, pledge or otherwise dispose of or deal in and with any of the shares of the capital stock, or any voting trust certificates in respect of the shares of capital stock, script, warrants, rights, bonds, debentures, notes, trust receipts, and other securities, obligations, chooses in action and evidences of indebtedness or interest issued or created by any corporations, joint stock companies, partnerships, limited partnerships, syndicates, associations, firms, trusts or persons, public or private, or by the government of the United States of America, or by any foreign government, or by any state, territory, province, municipality or other political subdivision or by any governmental agency, and as owner thereof to possess and exercise all the rights, powers and privileges of ownership, including the right to execute consents and vote thereon and to do any and all acts and things necessary or advisable for the preservation, protection, improvement and enhancement in value thereof.

To enter into, make and perform contracts of every kind and description with any person, firm, association, corporation, municipality, county, state, body politic or government or colony or dependency thereof.

To borrow or raise monies for any of the purposes of the Corporation and, from time to time to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment of any thereof and of the interest thereon by mortgage upon or pledge, conveyance or assignment in trust of the whole or any part of the property of the Corporation, whether at the time owned or thereafter acquired, and to sell, pledge or otherwise dispose of such bonds or other obligations of the Corporation for its corporate purposes.

To purchase, hold, sell and transfer the shares of its own capital stock; provided it shall not use its funds or property for the purchase of its own shares of capital stock when such use would cause any impairment of its capital except as otherwise permitted by law, and provided further that shares of its own capital stock belonging to it shall not be voted upon directly or indirectly.

To have one or more offices, to carry on all or any of its operations and business and to purchase or otherwise acquire, hold, own, mortgage, sell, convey or otherwise dispose of, real and personal property of every class and description in any of the states, districts, territories or colonies of the United States, and in any and all foreign countries, subject to the laws of such state, district, territory, colony or country.

In general, to carry on any other business in connection with the foregoing, and to have and exercise all the powers conferred by the laws of Delaware upon corporations formed under the General Corporation Law of the State of Delaware, and to do any or all things hereinbefore set forth to the same extent as natural persons might or could do.

The objects and purposes specified in the foregoing clauses shall, except where otherwise expressed, be in no wise limited or restricted by reference from, the terms of any other clause in this Certificate of Incorporation, but the objects and purposes specified in each of the foregoing clauses of this article shall be regarded as independent objects and purposes.

FOURTH. The total number of shares of all classes of stock which this corporation shall have authority to issue is 870,000,000 which shall be divided into (a) 860,000,000 shares of common stock having a par value of $0.625 per share and (b) 10,000,000 shares of no par value preferred stock.

A description of the different classes of stock of the Corporation, a statement of the relative rights of the holders of stock of such classes, and a statement of the voting powers and the designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, of the various classes of stock are as follows:

A. Shares of the Preferred Stock may be issued by the Board of Directors of the Corporation with such voting powers, full or limited or without voting powers and in such classes and series and with such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions providing for the issue of such stock adopted by the Board of Directors of the Corporation.

B. A holder of the Common Stock of the Corporation shall be entitled to one vote for each and every share of Common Stock standing in his name at any and all meetings of stockholders of the Corporation.

C. Shares of the voting stock of the Corporation shall not be voted cumulatively.

D. Except as provided in Paragraph A of this Article FOURTH, shares of stock of the Corporation do not carry pre-emptive rights.

E. There shall be set forth on the face or back of each certificate for shares of stock of the Corporation a statement that the Corporation will furnish without charge to each stockholder who so requests, the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights, provided, however, that there shall be no lien in favor of the Corporation upon the shares represented by any such certificate and there shall be no restriction upon the transfer of shares so represented by virtue of any by-law of the Corporation unless such lien or restriction is stated upon the certificate.

Series A Junior Participating Preferred Stock

1. *Designation and Amount*. There shall be a series of Preferred Stock, no par value per share, that shall be designated as “Series A Junior Participating Preferred Stock,” and the number of whole shares constituting such series shall be 100,000. Such number of shares may be increased or decreased by resolution of the Board of Directors; provided, however, that no decrease shall reduce the number of shares of Series A Junior Participating Preferred Stock to less than the number of shares then issued and outstanding plus the number of shares issuable upon exercise of outstanding rights, options or warrants, or upon conversion of outstanding securities issued by the Corporation.

2. *Dividends and Distribution*.

(A) Subject to the prior and superior rights of the holders of any shares of any series of Preferred Stock ranking prior and superior to the shares of Series A Junior Participating Preferred Stock with respect to dividends, the holders of record of shares of Series A Junior Participating Preferred Stock as of the close of business on the last Business Day of December, March, June and September in each year, in preference to the holders of shares of any class or series of stock of the Corporation ranking junior to the Series A Junior Participating Preferred Stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the last Business Day of January, April, July and October in each year (each such date being referred to herein as a “Quarterly Dividend Payment Date”), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Junior Participating Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) $100 or (b) the Adjustment Number (as defined below) times the aggregate per share amount of all cash dividends, and the Adjustment Number times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock, par value $0.625 per share, of the Corporation (the “Common Stock”) since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Junior Participating Preferred Stock. The “Adjustment Number” shall be 10,000.

(B) The Corporation shall declare a dividend or distribution on the Series A Junior Participating Preferred Stock as provided in paragraph (A) above immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock).

(C) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Junior Participating Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series A Junior Participating Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series A Junior Participating Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be no more than 60 days prior to the date fixed for the payment thereof.

3. *Voting Rights*. The holders of shares of Series A Junior Participating Preferred Stock shall have the following voting rights:

(A) Each share of Series A Junior Participating Preferred Stock shall entitle the holder thereof to a number of votes equal to the Adjustment Number on all matters submitted to a vote of the stockholders of the Corporation.

(B) Except as required by law and by Section 10 hereof, holders of Series A Junior Participating Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

4. *Certain Restrictions*.

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

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock;

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

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

(B) The Corporation shall not permit any subsidiary or other affiliate controlled by the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

5. *Reacquired Shares*. Any shares of Series A Junior Participating Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired promptly after the acquisition thereof. All such shares shall upon their retirement become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to any conditions and restrictions on issuance set forth herein.

6. *Liquidation, Dissolution or Winding Up*. (A) Upon any liquidation (voluntary or otherwise), dissolution or winding up of the Corporation, no distribution shall be made to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock unless, prior thereto, the holders of shares of Series A Junior Participating Preferred Stock shall have received $100 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment (the "Series A Liquidation Preference"). Following the payment of the full amount of the Series A Liquidation Preference, no additional distributions shall be made to the holders of shares of Series A Junior Participating Preferred Stock unless, prior thereto, the holders of shares of Common Stock shall have received an amount per share (the "Common Adjustment") equal to the quotient obtained by dividing (i) the Series A Liquidation Preference by (ii) the Adjustment Number. Following the payment of the full amount of the Series A Liquidation Preference and the Common Adjustment in respect of all outstanding shares of (1) Series A Junior Participating Preferred Stock and (2) Common Stock, respectively, (a) holders of Series A Junior Participating Preferred Stock and (b) holders of shares of Common Stock shall, subject to the prior rights of all other series of Preferred Stock, if any, ranking prior thereto, receive their ratable and proportionate share of the remaining assets to be distributed in the ratio of the Adjustment Number to 1 with respect to (x) the Series A Junior Participating Preferred Stock and (y) the Common Stock, on a per share basis, respectively.

(B) In the event, however, that there are not sufficient assets available to permit payment in full of the Series A Liquidation Preference and the liquidation preferences of all other series of Preferred Stock, if any, that rank on a parity with the Series A Junior Participating Preferred Stock, then such remaining assets shall be distributed ratably to the holders of such parity shares in proportion to their respective liquidation preferences. In the event, however, that there are not sufficient assets available to permit payment in full of the Common Adjustment, then such remaining assets shall be distributed ratably to the holders of Common Stock.

(C) Neither the merger or consolidation of the Corporation into or with another corporation nor the merger or consolidation of any other corporation into or with the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6.

7. *Consolidation, Merger, Etc*. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series A Junior Participating Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share equal to the Adjustment Number times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged.

8. *No Redemption*. Shares of Series A Junior Participating Preferred Stock shall not be subject to redemption by the Company.

9. *Ranking*. The Series A Junior Participating Preferred Stock shall rank junior to all other series of the Corporation's Preferred Stock as to the payment of dividends and the distribution of assets, unless the terms of any such series shall provide otherwise, and shall rank senior to the Common Stock as to such matters.

10. *Amendment*. At any time that any shares of Series A Junior Participating Preferred Stock are outstanding, the Amended and Restated Certificate of Incorporation of the Corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series A Junior Participating Preferred Stock so as to affect them adversely without the affirmative vote of the holders of two-thirds of the outstanding shares of Series A Junior Participating Preferred Stock, voting separately as a class.

11. *Fractional Shares*. Series A Junior Participating Preferred Stock may be issued in fractions of a share that shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Junior Participating Preferred Stock.

FIFTH. The minimum amount of capital with which the Corporation will commence business is One thousand Dollars ($1,000.00).

SIXTH. The name and address of the original incorporator was as follows:

Name	**Address**
Rajesh Sharma	2000 Post Oak Boulevard, Suite 100, Houston, Texas 77056

SEVENTH. The Corporation is to have perpetual existence.

EIGHTH. The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

NINTH. The number of directors shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the directors then in office.

Commencing with the 2016 annual meeting of stockholders, the successors of the directors whose terms expire at that meeting shall be elected for a one-year term expiring at the 2017 annual meeting of stockholders; at the 2017 annual meeting of stockholders, the successors of the directors whose terms expire at that meeting shall be elected for a one-year term expiring at the 2018 annual meeting of stockholders; and at each annual meeting of stockholders thereafter, all directors shall be elected for one-year terms expiring at the next annual meeting of stockholders. Until the following transition has been completed, the Board of Directors shall be classified and divided into three classes, after which the classification shall expire. As a result, the directors who were elected at the 2015 annual meeting of stockholders will serve for a term expiring at the 2018 annual meeting of stockholders. The directors who were elected at the 2014 annual meeting of stockholders will serve for a term expiring at the 2017 annual meeting. The directors who were elected at the 2013 annual meeting of stockholders will serve for a term expiring at the 2016 annual meeting.

A majority of the directors then in office, in their sole discretion and whether or not constituting less than a quorum, may elect a replacement director to serve during the unexpired term of any director previously elected whose office is vacant as a result of death, resignation, retirement, disqualification, removal, or otherwise, and may elect directors to fill any newly created directorships created by the Board. At any election of directors by the Board of Directors to fill any vacancy caused by an increase in the number of directors, the terms of office for which candidates are nominated and elected shall be divided as set forth in the immediately preceding paragraph.

Each director shall be elected and serve until his or her successor shall have been duly elected and qualified unless he or she shall have resigned, become disqualified, deceased or disabled, or shall otherwise have been removed from office.

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

To make, alter or repeal the by-laws of the Corporation.

To authorize and cause to be executed mortgages and liens upon the real and personal property of the Corporation.

To set apart out of any of the funds of the Corporation available for dividends, a reserve or reserves for any proper purpose and to abolish any such reserve in the manner in which it was created.

By resolution passed by a majority of the whole Board, to designate one or more committees, each committee to consist of two or more of the directors of the Corporation, which, to the extent provided in the resolution or in the by-laws of the Corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the Corporation or as may be determined from time to time by resolution adopted by the Board of Directors.

When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called for that purpose, to sell, lease, or exchange all of the property and assets of the Corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration which may be in whole or in part shares of stock in, and/or other securities of, any other corporation or corporations, as the Board of Directors shall deem expedient and for the best interest of the Corporation.

In the absence of fraud, no contract or other transaction between this Corporation and any other corporation shall be affected by the fact that any director of this Corporation is interested in, or is a director or officer of, such other corporation, and any director, individually or jointly, may be a party to, or may be interested in, any contract or transaction of this Corporation or in which this Corporation is interested; and no contract, or other transaction of this Corporation with any person, firm, or corporation, shall be affected by the fact that any director of this Corporation is a party to, or is interested in, such contract, act, or transaction, or in any way connected with such person, firm, or corporation, and every person who may become a director of this Corporation is hereby relieved from any liability that might otherwise exist from contracting with the Corporation for the benefit of himself or any firm, association, or corporation in which he may be in any way interested.

TENTH. Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code, or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

ELEVENTH. Meetings of stockholders may be held outside the state of Delaware, if the by-laws so provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside of the state of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the by-laws of the Corporation. Election of directors need not be by ballot unless the by-laws of the Corporation shall so provide.

TWELFTH. A. Except as set forth in this article, the affirmative vote or consent of the holders of four-fifths of all classes of stock of the Corporation entitled to vote in elections of directors, considered for the purposes of this article as one class, shall be required (a) for the adoption of any agreement for the merger or consolidation of the Corporation with or into any other corporation, or (b) to authorize any sale or lease of all or any substantial part of the assets of the Corporation to, or any sale or lease to the Corporation or any subsidiary thereof in exchange for securities of the Corporation of any assets (except assets having an aggregate fair market value of less than $5,000,000) of, any other corporation, person or other entity if, in either case, as of the record date for the determination of stockholders entitled to vote thereon or consent thereto, such other corporation, person or entity is the beneficial owner, directly or indirectly, of more than 5% of the outstanding shares of stock of the Corporation entitled to vote in elections of directors considered for the purposes of this article as one class. Such affirmative vote or consent shall be in addition to the vote or consent of the holders of the stock of the Corporation otherwise required by law or any agreement between the Corporation and any national securities exchange.

B. For the purpose of this article, (a) any corporation, person or other entity shall be deemed to be the beneficial owner of any shares of stock of the Corporation (i) which it has the right to acquire pursuant to any agreement or upon exercise of conversion rights, warrants or options or otherwise, or (ii) which are beneficially owned directly or indirectly (including shares deemed owned through application of clause (i) above), by any other corporation, person or entity with which it or its “affiliate” or “associate” (as defined below) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of stock of the Corporation or which is its “affiliate” or “associate” as those terms are defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 as in effect at the date of adoption of this article by the shareholders of the Corporation, and (b) the outstanding shares of any class of stock of the Corporation shall include shares deemed owned through application of clauses (i) and (ii) above but shall not include any other shares which may be issuable pursuant to any agreement, or upon exercise of conversion rights, warrants or options or otherwise.

C. The Board of Directors shall have the power and duty to determine for the purposes of this article, on the basis of information known to the Corporation, whether (a) such other corporation, person or entity beneficially owns more than 5% of the outstanding shares of stock of the Corporation entitled to vote in elections of directors, (b) a corporation, person or entity is an "affiliate" or "associate" (as defined above) of another, (c) the assets being acquired by the Corporation or any subsidiary thereof have the aggregate fair market value of less than $5,000,000, and (d) the memorandum of understanding referred to below is substantially consistent with the transaction covered thereby. Any such determination shall be conclusive and binding for all purposes of this article.

D. The provisions of this article shall not be applicable to (a) any merger or consolidation of the Corporation with or into any other corporation, or any sale or lease of all or any substantial part of the assets of the Corporation or any subsidiary thereof in exchange for securities of the Corporation or of any assets of, any corporation, if the Board of Directors of the Corporation shall by resolution have approved a memorandum of understanding with such other corporation with respect to and substantially consistent with such transaction prior to the time that such other corporation shall have become a holder of more than 5% of the outstanding shares of stock of the Corporation entitled to vote in elections of directors; (b) any merger or consolidation of the Corporation with, or any sale or lease to the Corporation or any subsidiary thereof of any of the assets of, any corporation of which a majority of the outstanding shares of all classes of stock entitled to vote in elections of the directors is owned of record or beneficially by the Corporation and its subsidiaries.

E. No amendment to the Certificate of Incorporation of the Corporation shall amend, alter, change or repeal any of the provisions of this article, unless the amendment effecting such amendment, alteration, change or repeal shall receive the affirmative vote or consent of the holders of four-fifths of all classes of stock of the Corporation entitled to vote in elections of directors, considered for the purposes of this article as one class.

THIRTEENTH. The Corporation reserves the right, except as herein provided, to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

FOURTEENTH. A. Any resolution adopted by the Board of Directors in connection with a Second Tier Transaction shall include provisions assuring that each holder of Common Stock (other than a Related Person) shall have the right (which right may be an alternative to other options offered to such holder) to receive not less than the highest price paid by, and to receive terms not less favorable than the most favorable terms granted by, any Related Person in connection with the acquisition of Common Stock pursuant to a Tender Offer.

B. The term "Related Person" means any corporation, person or other entity that has Beneficial Ownership, directly or indirectly, of more than 5% of the outstanding Voting Stock. In determining the outstanding Voting Stock, there shall be included Voting Stock as to which a Related Person has Beneficial Ownership, but there shall not be included any other Voting Stock which may be issuable pursuant to any agreement, or upon exercise of conversion rights, warrants or options or otherwise. The Board of Directors shall have the power and duty to determine for the purposes of this article, on the basis of information known to the Corporation, whether (a) such other corporation, person or entity has Beneficial Ownership of more than 5% of the outstanding Voting Stock, or (b) a corporation, person or entity is an "affiliate" or "associate" (as defined below) of another for purposes of determining Beneficial Ownership. Any such determination shall be conclusive and binding for all purposes of this article.

The term "Beneficial Ownership" shall include without limitation: (i) all Voting Stock directly or indirectly owned by a person or entity, by an "affiliate" or "associate" of a person or entity, (as those terms are defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended, as in effect at the date of adoption of this article); (ii) all Voting Stock which such person or entity, affiliate or associate has the right to acquire (a) through the exercise of any option, warrant or right (whether or not currently exercisable), (b) through the conversion of a security, (c) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; and (iii) all Voting Stock as to which such person or entity, affiliate or associate, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (including without limitation any written or unwritten agreement to act in concert) has or shares voting power (which includes the power to vote or to direct the voting of such Voting Stock) or investment power (which includes the power to dispose or to direct the disposition of such Voting Stock) or both.

The term “Second Tier Transaction” means, at such time that there is a Related Person which has acquired Voting Stock by means of a Tender Offer, (a) the adoption, or submission to the shareholders of the Corporation for approval, or any agreement or plan for the merger, consolidation or reorganization of the Corporation with or into any other corporation or entity, or (b) the authorization of any sale or lease of all or substantially all of the assets of the Corporation or (c) the issuance or sale by the Corporation of any equity security (as that term is defined in the Securities Exchange Act of 1934, as amended) to a Related Person or any affiliate or associate of a Related Person under circumstances that holders of Voting Stock do not have the opportunity to purchase such equity on a pro rata basis.

The term “Tender Offer” means any tender offer for, or request or invitation for tenders of, Voting Stock, within the meaning of Section 14(d)(1) of the Securities Exchange Act of 1934, as amended, and any purchase or series of purchases of Voting Stock at or above then prevailing market prices for such Voting Stock pursuant to which more than 5% of the outstanding Voting Stock is acquired in any two-year period.

The term “Voting Stock” means securities of the Corporation entitled under ordinary circumstances to vote in elections of directors, considered for the purposes of this article as one class.

C. No amendment to the Certificate of Incorporation shall amend, alter, change or repeal any of the provisions of this article, unless the amendment effecting such amendment, alteration, change or repeal shall receive the affirmative vote or consent of the holders of four-fifths of the Voting Stock and shall receive the affirmative vote or consent of a majority of all Voting Stock other than Voting Stock of which a Related Person has Beneficial Ownership.

FIFTEENTH. A. Subject to Paragraph B below, the Corporation shall not acquire, directly or indirectly, any Voting Stock, by purchase, exchange or otherwise from any Related Person.

B. This article shall not be applicable to any acquisition of Voting Stock (1) pursuant to a Tender Offer made to all holders of any class of Voting Stock on the same price, terms and conditions and, if for less than all of the Voting Stock, subject to pro rata acceptance (except as to holders of fewer than 100 shares), (2) in compliance with Rule 10b-18 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended, as in effect at the date of adoption of this article, or (3) for a total consideration per share, including payment for legal fees, investment banking fees, brokerage fees and related costs and expenses of the holder in acquiring such Voting Stock, not in excess of the Market Value Per Share.

C. The term “Related Person” means any corporation, person or entity that has Beneficial Ownership, directly or indirectly, of more than 5% of the outstanding Voting Stock. In determining the outstanding Voting Stock of the Corporation, there shall be included Voting Stock as to which a Related Person has Beneficial Ownership, but there shall not be included any other Voting Stock which may be issuable pursuant to any agreement, or upon exercise of conversion rights, warrants or options or otherwise. The Board of Directors shall have the power and duty to determine for the purposes of this article, on the basis of information known to the Corporation, whether (a) such other corporation, person or entity has Beneficial Ownership of more than 5% of the outstanding Voting Stock, or (b) a corporation, person or entity is an “affiliate” or “associate” (as defined below) of another for purposes of determining Beneficial Ownership. Any such determination shall be conclusive and binding for all purposes of this article.

The term “Beneficial Ownership” shall include without limitation: (i) all Voting Stock directly or indirectly owned by a person or entity, by an “affiliate” or “associate” of a person or entity, (as those terms are defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act, as amended, as in effect at the date of adoption of this article); (ii) all Voting Stock which such person or entity, affiliate or associate has the right to acquire (a) through the exercise of any option, warrant or right (whether or not currently exercisable), (b) through the conversion of a security, (c) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; and (iii) all Voting Stock as to which such person or entity, affiliate or associate, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (including without limitation any written or unwritten agreement to act in concert) has or shares voting power (which includes the power to vote or to direct the voting of such Voting Stock) or investment power (which includes the power to dispose or to direct the disposition of such Voting Stock) or both.

The term “Market Value Per Share” means for the 30-day period immediately preceding the date on which Voting Stock is acquired (i) the average closing price on the Composite Tape for New York Stock Exchange Issues, (ii) if the Voting Stock is not quoted on the Composite Tape or is not listed on such Exchange, the average closing price on the principal United States securities exchange registered under the Securities Exchange Act of 1934, on which such stock is listed, (iii) if such stock is not listed on any such exchange, the average closing bid quotation on the National Association of Securities Dealers, Inc., Automated Quotations System or any comparable system then in use, or (iv) if no such quotations are available, the fair market value as determined by the Board of Directors in its discretion.

The term “Voting Stock” means securities of the Corporation entitled under ordinary circumstances to vote in elections of directors, considered for the purposes of this article as one class.

SIXTEENTH. Except as otherwise expressly provided in this Certificate of Incorporation, any action required or permitted to be taken by the shareholders of the Corporation must be effected at a duly called annual or special meeting of the shareholders and may not be effected by any consent in writing by shareholders, and the affirmative vote of the holders of four-fifths of all classes of stock of the Corporation entitled to vote in elections of directors, considered as one class, shall be required to alter, amend, or adopt any provision inconsistent with, or to repeal, this Article SIXTEENTH.

SEVENTEENTH. No director shall be personally liable to the Corporation or any stockholder for monetary damages for breach of fiduciary duty as a director, except for any matter in respect to which such director shall be liable under Section 174 of Title 8 of the Delaware Code (relating to the General Corporation Law of the State of Delaware) or any amendment thereto or successor provision thereto or shall be liable by reason that, in addition to any and all other requirements for such liability, he (i) shall have breached his duty of loyalty to the Corporation or its stockholders, (ii) shall not have acted in good faith, or in failing to act, shall not have acted in good faith, (iii) shall have acted in a manner involving intentional misconduct or a knowing violation of law or, in failing to act, shall have acted in a manner involving intentional misconduct or a knowing violation of law or (iv) shall have derived an improper personal benefit. Neither the amendment nor repeal of this Article SEVENTEENTH, nor the adoption of any provision of the Certificate of Incorporation inconsistent with this Article SEVENTEENTH, shall eliminate or reduce the effect of this Article SEVENTEENTH, in respect to any matter occurring, or any cause of action, suit or claim that, but for this Article SEVENTEENTH would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

4. This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors in accordance with Section 245 of the General Corporation Law of the State of Delaware.

[*Signature Page Follows*]

IN WITNESS WHEREOF, said APA Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by Stephen J. Riney, its Executive Vice President and Chief Financial Officer, and attested by Rajesh Sharma, its Corporate Secretary, this 1st day of March, 2021.

[Corporate Seal]

APA CORPORATION

By: /s/ Stephen J. Riney
Stephen J. Riney
Executive Vice President and Chief Financial Officer

ATTEST:

By: /s/ Rajesh Sharma
Rajesh Sharma
Corporate Secretary

AMENDED AND RESTATED BYLAWS

OF APA CORPORATION

(March 1, 2021)

ARTICLE I.

NAME OF CORPORATION

The name of the corporation is APA Corporation.

ARTICLE II.

OFFICES

SECTION 1. The principal office of the corporation shall be in the City of Wilmington, County of New Castle, State of Delaware, and the name of its resident agent in charge thereof is The Corporation Trust Company.

SECTION 2. The corporation may have such other offices either within or without the State of Delaware as the board of directors may designate or as the business of the corporation may from time to time require.

ARTICLE III.

SEAL

The corporate seal shall have inscribed upon it the name of the corporation and other designations as the board of directors from time to time determine. There may be alternate seals of the corporation.

ARTICLE IV.

MEETINGS OF STOCKHOLDERS

SECTION 1. PLACE OF MEETINGS. All meetings of the stockholders of the corporation shall be held at the office of the corporation in the City of Houston, Texas, or at any other place within or without the State of Delaware that shall be stated in the notice of the meeting.

SECTION 2. ANNUAL MEETINGS. The annual meeting of stockholders of the corporation shall be held at the place and time within or without the State of Delaware that may be designated by the board of directors, on the last Thursday in April in each year or on such other date as may be designated by the board of directors, if not a legal holiday, and if a legal holiday, then at the same time on the next succeeding business day for the purpose of electing directors and for the transaction of any other business that may properly come before the meeting.

SECTION 3. SPECIAL MEETINGS OF THE STOCKHOLDERS. Special meetings of the stockholders of the corporation, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the (i) chairman of the board or the chief executive officer, (ii) chairman of the board, chief executive officer, or secretary at the request in writing of a majority of the board of directors or (iii) chairman of the board or the secretary of the corporation at the written request in proper form of one or more stockholders of record of the corporation (acting on their own behalf and not by assigning or delegating their rights to any other person or entity) that together have continuously held, for their own accounts, beneficial ownership of at least fifteen percent (15%) aggregate net long position in the issued and outstanding voting stock of the corporation entitled to vote generally for the election of directors (the "requisite percent") for at least three continuous years prior to the date such request is delivered to the corporation and at the meeting date, provided that, each such stockholder shall have held, for their own accounts, beneficial ownership of not less than ten thousand (the "minimum ownership") and not more than ten percent (10%) (the "maximum ownership") of the issued and outstanding voting stock of the corporation entitled to vote generally for the election of directors. For purposes of determining the requisite percent, "net long position" shall be determined with respect to each requesting stockholder in accordance with the definition thereof set forth in Rule 14e-4 under the Securities Exchange Act of 1934, as amended, provided that (i) for the purposes of such definition, reference in such rule to (A) "the date the tender offer is first publicly announced or otherwise made known by the bidder to the holders of the security to be acquired" shall be the date of the relevant special meeting request, (B) the "highest tender offer price or stated amount of the consideration offered for the subject security" shall refer to the closing sales price of the corporation's common stock on the NYSE on such date (or, if such date is not a trading day, the next succeeding trading day), (C) the "person whose securities are the subject of the offer" shall refer to the corporation, (D) a "subject security" shall refer to the issued and outstanding voting stock of the corporation; and (ii) the net long position of such stockholder shall be reduced by the number of shares as to which such stockholder does not, or will not, have the right to vote on its own behalf at the special meeting or as to which such stockholder has entered into any derivative or other agreement, arrangement, or understanding that hedges or transfers, in whole or in part, directly or indirectly, any of the economic consequences of ownership of such shares. Whether the requesting stockholders have complied with the requirements of this Section 3 and related provisions of the bylaws shall be determined in good faith by the board of directors, which determination shall be conclusive and binding on the corporation and the stockholders. In order for a special meeting upon stockholder request (a "stockholder requested special meeting") to be called, one or more requests for a special meeting (each, a "special meeting request," and collectively, the "special meeting requests") must be signed by the stockholders of the corporation holding the requisite percent of the voting stock of the corporation and must be delivered to the secretary at the principal executive offices of the corporation by registered mail, return receipt requested; provided, however, that no stockholder requested special meeting shall be called pursuant to

any special meeting request unless one or more special meeting requests relating to such meeting constituting the requisite percent have been delivered to the secretary in compliance with all of the requirements of this Section 3 within 60 days of the earliest dated special meeting request in respect of such stockholder requested special meeting. The special meeting request(s) shall (i) set forth the name and address, as they appear on the corporation's books, of each stockholder of the corporation signing such request, (ii) state the specific purpose or purposes of the special meeting, the matter or matters proposed to be acted on at the special meeting, the reasons for conducting such business at the special meeting, and the text of any proposal or business to be considered at the special meeting (including the text of any resolutions proposed to be considered and, in the event that such business includes a proposal to amend these bylaws, the language of the proposed amendment, which language shall be contained in the notice of special meeting as required by Article XIII, Section 1 (Amendments), hereof), (iii) bear the date of signature of each such stockholder signing the special meeting request, (iv) provide documentary evidence that the stockholder(s) requesting the special meeting own the requisite percent and not less than the minimum ownership and not more than the maximum ownership as of the date on which the special meeting request(s) constituting the requisite percent are delivered to the secretary and attach a notarized affidavit swearing to the net long position of such stockholder(s), (v) provide a representation by each stockholder signing the special meeting request that such stockholder intends to appear in person at the stockholder requested special meeting and is entitled to vote thereon, (vi) provide a representation by each stockholder signing the special meeting request that such stockholder intends to continue ownership of such shares through the date of the special meeting, and (vii) if applicable, include any additional information required by ARTICLE IV, Section 13 (Notice of Stockholder Nominees) hereof. Any requesting stockholder may revoke its special meeting request at any time by written revocation delivered to the secretary at the principal executive offices of the corporation.

In the event of the delivery, in the manner provided in this Section 3, to the corporation of the requisite special meeting request or requests and/or any related revocation or revocations, the corporation may engage nationally recognized independent inspectors for the purpose of promptly performing a ministerial review of the validity of the requests and revocations. For the purpose of permitting the inspectors to perform such review, no special meeting request shall be granted until such date as the independent inspectors certify to the corporation that the requests delivered to the corporation in accordance with this Section 3, and not revoked, represent at least the minimum number of shares held for the minimum amount of time to call such a stockholder requested special meeting. Nothing contained in this Section 3 shall in any way be construed to suggest or imply that the board of directors or any stockholder shall not be entitled to contest the validity of any request or revocation thereof, whether before or after such certification by the independent inspectors, or take any other action (including, without limitation, the commencement, prosecution, or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

Except as provided in the next sentence, any special meeting shall be held at such date and time as may be fixed by the board of directors in accordance with these bylaws and in compliance with the General Corporation Law of the State of Delaware. In the case of a stockholder requested special meeting, such meeting shall be held at such date, time and place as shall be provided in the notice of such meeting delivered in accordance with Article IV, Section 4 below, and the record date for stockholders entitled to

notice of and to vote at such meeting shall be determined in accordance with Article IV, Section 5 below; provided that, except as otherwise provided herein or unless a later date is required in order to allow the corporation to file the information required under Item 8 (or any comparable or successor provision) of Schedule 14A under the Securities Exchange Act of 1934, as amended, if applicable, the date of any stockholder requested special meeting shall be not more than 90 days after (i) the determination of the validity of the special meeting request(s) by the independent inspectors in the manner provided in this Section 3 or (ii) if no such independent inspectors are engaged to review the validity of one or more special meeting requests, not more than 90 days after the special meeting request(s) constituting the requisite percent have been delivered to or received by the secretary.

Business transacted at any stockholder requested special meeting shall be limited to the purpose(s) stated in the valid special meeting request(s) signed by stockholders holding the requisite percent of the corporation's voting stock; provided, however, that nothing herein shall prohibit the board of directors from submitting matters, whether or not described in the stockholder special meeting request(s), to the stockholders at any stockholder requested special meeting. If none of the stockholders who submitted a special meeting request appears at or sends a qualified representative to the stockholder requested special meeting to present the matters to be presented for consideration that were specified in the special meeting request, the corporation need not present such matters for a vote at such meeting.

Except as otherwise provided by law, in the case of a stockholder requested special meeting, the chairman of the meeting shall have the power and duty (i) to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 3 and (ii) if any proposed nomination or business was not made or proposed in compliance with this Section 3 or the stated business to be brought before the special meeting is not a proper subject for stockholder action under applicable law, to declare that such nomination shall be disregarded or that such proposed business shall not be transacted. In addition, a special meeting requested by stockholders shall not be held if the board of directors has called or calls for a special or regular meeting of stockholders to be held within 90 days after the special meeting request(s) constituting the requisite percent have been delivered to or received by the secretary and the board of directors determines in good faith that the business of such meeting includes (among any other matters properly brought before the meeting) the business specified in such special meeting request. The board of directors, in its discretion, also may cancel a special meeting (or, if the special meeting has not yet been called, may direct the chairman of the board or the secretary of the corporation not to call such a meeting) if, at any time after receipt by the secretary of the corporation of a proper special meeting request, there are no longer valid special meeting requests from stockholders holding in the aggregate at least the requisite percent, whether because of revoked requests or otherwise. In such event, the stockholder(s) who requested such meeting may not call (or participate in calling) another special meeting for one year after such cancellation.

SECTION 4. NOTICE OF MEETING. Written or printed notice stating the place, day and hour of the meeting and in the case of special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than 60 days before the date of the meeting either personally, by mail or other lawful means by or at the direction of the chairman of the board, the chief executive

officer, or the secretary to each stockholder of record entitled to vote at the meetings. If mailed, the notice shall be deemed to be delivered when deposited in the United States Postal Service, addressed to the stockholder at his address as it appears on the stock transfer books of the corporation with postage thereon prepaid.

SECTION 5. CLOSING OF TRANSFER BOOKS FOR FIXING OF RECORD DATE. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or adjournment thereof, the board of directors may close the stock transfer books of the corporation for a period not exceeding 60 days preceding the date of any meeting of stockholders. In lieu of closing the stock transfer books, the board of directors may fix in advance a date, not exceeding 60 days preceding the date of any meeting of stockholders, as a record date for the determination of the stockholders entitled to notice of and to vote at the meeting and any adjournment thereof, and only the stockholders as shall be stockholders of record on the date so fixed shall be entitled to the notice of and to vote at the meeting and any adjournment thereof.

SECTION 6. VOTING LISTS. The officer or agent having charge of the stock transfer books for shares of the corporation shall prepare and make, at least ten days before every meeting of the stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The list shall be open to the examination of any stockholder during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the election is to be held and which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held, and the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and subject to the inspection of any stockholder who may be present. Upon the willful neglect or refusal of the board of directors of the corporation to produce a list at any meeting of the stockholders at which an election is to be held in accordance with this Section 6, they shall be ineligible to hold any office at such election.

SECTION 7. VOTING RIGHTS. At each meeting of the stockholders of the corporation, every stockholder having the right to vote thereat shall be entitled to vote in person or by proxy, but no proxy shall be voted after three years from its date unless the proxy provides for a longer period. Except as otherwise provided by law or the Certificate of Incorporation, each stockholder shall have one vote for each share of stock having voting power registered in his name. The vote at an election for directors, and upon the demand of any stockholder, the vote upon any question before a meeting of the stockholders, shall be by written ballot. All elections shall be had and all questions decided by a plurality vote except where by statute, by provision in the Certificate of Incorporation or these bylaws it is otherwise provided.

Prior to any meeting, but subsequent to the date fixed by the board of directors pursuant to Section 5 of Article IV of these bylaws, any proxy may submit his proxy to the secretary for examination. The certificate of the secretary as to the regularity of the proxy and as to the number of shares held by the persons who severally and respectively executed such proxies shall be received as prima facie evidence of the number of shares represented by the holder of the proxy for the purpose of establishing the presence of a quorum at the meeting and of organizing the same.

SECTION 8. QUORUM. The holders of a majority of the stock issued and outstanding and entitled to vote thereat, initially present in person or represented by proxy, shall be requisite, and shall constitute a quorum of all meetings of the stockholders for the transaction of business except as otherwise provided by law, by the Certificate of Incorporation, or by these bylaws. If, however, a majority shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or by proxy, shall have power to adjourn the meeting from time to time, without notice, other than announcement at the meeting, until the requisite amount of voting stock shall be present. At the adjourned meeting at which the requisite amount of voting stock shall be represented, any business may be transacted which might have been transacted at the meeting as originally notified.

SECTION 9. INSPECTORS. At each meeting of the stockholders, the polls shall be opened and closed. The proxies and the ballots shall be received and taken in charge and all questions touching the qualifications of voters and the validity of proxies and the acceptance or rejection of votes shall be decided by three inspectors. The inspectors shall be appointed by the board of directors before or at the meeting, or if no appointment shall have been made, then by the presiding officer at the meeting. If, for any reason any of the inspectors previously appointed shall fail to attend or refuse or be unable to serve, inspectors in place of any so failing to attend or refusing or unable to serve shall be appointed in like manner.

SECTION 10. WAIVER OF NOTICE. Whenever any notice whatever is required to be given pursuant to the provisions of a statute, the Certificate of Incorporation or these bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

SECTION 11. STOCKHOLDER ACTION. Any action required or permitted to be taken by the stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by any consent in writing by stockholders.

SECTION 12. NOTICE OF STOCKHOLDER BUSINESS. At an annual meeting of the stockholders, only business shall be conducted that has been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the board of directors, (b) otherwise properly brought before the meeting by or at the direction of the board of directors, or (c) otherwise properly brought before the meeting by a stockholder, which stockholder must have given timely notice thereof in writing to the secretary of the corporation. To be timely, a stockholder’s notice must be delivered to or mailed and received at the principal executive offices of the corporation not less than 120 days prior to the meeting. A stockholders’ notice to the secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting (w) a brief description of the business desired to be brought before the annual meeting, (x) the name and address, as they appear on the corporation’s books, of the stockholder proposing the business, (y) the class and number of shares of the corporation which are beneficially owned by the stockholder, and (z) any material interest of the stockholder in the business. Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this Section 12. The chairman of an annual

meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of this Section 12, and if he should so determine, he shall so declare to the meeting and any business not properly brought before the meeting shall not be transacted. This section sets forth only the procedure by which business may be properly brought before an annual meeting of stockholders and does not in any way grant additional rights to stockholders beyond those currently afforded them by law.

SECTION 13. NOTICE OF STOCKHOLDER NOMINEES. Only persons who are nominated in accordance with the procedures set forth in this Section 13 or in Section 14 of this Article IV shall be eligible for election as directors. Nominations of persons for election to the board of directors of the corporation may be made at a meeting of stockholders (i) by or at the direction of the board of directors, (ii) by any stockholder of the corporation entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in this Section 13 or (iii) by any Eligible Stockholder (as defined below) who satisfies the requirements and complies with the procedures set forth in Section 14 of this Article IV. Any nominations, other than those made by or at the direction of the board of directors, shall be made pursuant to timely notice in writing to the secretary of the corporation. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the corporation not less than 120 days prior to the meeting. The stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class and number of shares of the corporation which are beneficially owned by the person, and (iv) any other information relating to the person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (including without limitation the person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); and (b) as to the stockholder giving the notice (i) the name and address, as they appear on the corporation's books, of the stockholder and (ii) the class and number of shares of the corporation which are beneficially owned by the stockholder. At the request of the board of directors, any person nominated by the board of directors for election as a director shall furnish to the secretary of the corporation that information required to be set forth in a stockholder's notice of nomination which pertains to the nominee. No person shall be eligible for election as a director of the corporation unless nominated in accordance with the procedures set forth in this Section 13 or Section 14 of this Article IV. 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.

SECTION 14. INCLUSION OF STOCKHOLDER NOMINEES IN THE CORPORATION'S PROXY MATERIALS. Subject to the terms and conditions set forth in these bylaws, the corporation shall include in its proxy materials for an annual meeting of stockholders after the 2016 annual meeting the name, together with the Required Information (defined below), of any person nominated for election (the "Stockholder Nominee") to the board of directors by a stockholder or group of stockholders that satisfy the requirements of this Section 14, including qualifying as an Eligible Stockholder (as defined below), and that expressly elects at the time of providing the written notice required by this Section 14 (a "Proxy Access Notice") to have its nominee included in the corporation's proxy materials pursuant to this Section 14.

A. DEFINITIONS. For the purposes of this Section 14:

(1) “Voting Stock” shall mean outstanding shares of capital stock of the corporation entitled to vote generally for the election of directors;

(2) “Constituent Holder” shall mean any stockholder or beneficial holder whose stock ownership is counted for the purposes of qualifying as holding the Proxy Access Request Required Shares (as defined below) or qualifying as an Eligible Stockholder (as defined below);

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

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

B. REQUIRED INFORMATION. For the purposes of this Section 14, the "Required Information" is (1) the information concerning the Stockholder Nominee and the Eligible Stockholder that the corporation determines is required to be disclosed in the corporation's proxy statement by the regulations promulgated under the Exchange Act and (2) if the Eligible Stockholder so elects, a Statement (defined below). The corporation shall also include the name of the Stockholder Nominee in its proxy card. For the avoidance of doubt, and any other provision of these bylaws notwithstanding, the corporation may in its sole discretion solicit against, and include in the proxy statement its own statements or other information relating to, any Eligible Stockholder and/or Stockholder Nominee, including any information provided to the corporation with respect to the foregoing.

C. NOTICE. To be timely, a stockholder's Proxy Access Notice must be delivered to the principal executive offices of the corporation not less than 120 calendar days nor more than 150 day calendar days before the anniversary date of the corporation's definitive proxy statement being released to stockholders in connection with the previous year's annual meeting. In no event shall any adjournment or postponement of an annual meeting, the date of which has been announced by the corporation, commence a new time period for the giving of a Proxy Access Notice.

D. PERMITTED NUMBER. The maximum number of Stockholder Nominees required to appear in the corporation's proxy materials pursuant to this Section 14 with respect to an annual meeting of stockholders shall equal the largest whole number that does not exceed 25% of the number of directors in office as of the last day on which a Proxy Access Notice may be delivered in accordance with the procedures set forth in this Section 14 (such number, the "Permitted Number"); provided, however, that for purposes of determining whether the Permitted Number has been reached, each of the following persons shall be counted as a Stockholder Nominee: (i) individuals submitted by an Eligible Stockholder for inclusion in the corporation's proxy materials pursuant to this Section 14 that the board of directors decides to nominate as a nominee of the board of directors; (ii) individuals nominated by an Eligible Stockholder for inclusion in the corporation's proxy materials pursuant to this Section 14 whose nominations are subsequently withdrawn; and (iii) directors in office that will be included in the corporation's proxy materials with respect to such annual meeting for whom access to the corporation's proxy materials was previously provided or requested pursuant to this Section 14, other than any such director referred to in this clause (iii) who at the time of such annual meeting will have served as a director continuously, as a nominee of the board of directors, and not as a nominee of an Eligible Stockholder, for at least two annual terms. In the event the board of directors resolves to reduce the size of the board of directors effective on or prior to the date of the annual meeting, the Permitted Number shall be calculated based on the number of directors in office as so reduced. In the event that the number of Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 14 exceeds the Permitted Number, each Eligible Stockholder will select one Stockholder Nominee for inclusion in the corporation's proxy materials until the Permitted Number is reached, going in order of the amount (largest to smallest) of shares of Voting Stock reasonably believed by the corporation to be owned by each Eligible Stockholder and disclosed as owned in its Proxy Access Notice submitted to the corporation. If

the Permitted Number is not reached after each Eligible Stockholder has selected one Stockholder Nominee, this selection process will continue as many times as necessary, following the same order each time, until the Permitted Number is reached. Following such determination, if any Stockholder Nominee who satisfies the eligibility requirements in this Section 14 thereafter is nominated by the board of directors, not included in the corporation's proxy materials or not submitted for director election for any reason (including the Eligible Stockholder's or Stockholder Nominee's failure to comply with this Section 14), no other nominee or nominees shall be required to be included in the corporation's proxy materials or otherwise submitted for election as a director at the applicable annual meeting in substitution for such Stockholder Nominee.

E. ELIGIBLE STOCKHOLDER. An "Eligible Stockholder" is one or more stockholders of record who own or have owned, or are acting on behalf of one or more beneficial owners who own and have owned (in each case as defined above), in each case continuously for at least three (3) years as of both the date that the Proxy Access Notice is received by the corporation pursuant to this Section 14, and as of the record date for determining stockholders eligible to vote at the annual meeting, an aggregate net long position (as defined in Section 3 of this Article IV) of at least three percent (3%) of the aggregate voting power of the Voting Stock (the "Proxy Access Request Required Shares"), and who continue to own the Proxy Access Request Required Shares at all times between the date such Proxy Access Notice is received by the corporation and the date of the applicable annual meeting, provided that the aggregate number of stockholders, and, if and to the extent that a stockholder is acting on behalf of one or more beneficial owners, of such beneficial owners, whose stock ownership is counted for the purpose of satisfying the foregoing ownership requirement shall not exceed twenty (20). Two or more collective investment funds that are (I) under common management and investment control; (II) under common management and sponsored primarily by the same employer; or (III) a "group of investment companies" as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940 (a "Qualifying Fund") shall be treated as one stockholder for the purpose of determining the aggregate number of stockholders in this paragraph (E), provided that each fund included within a Qualifying Fund otherwise meets the requirements set forth in this Section 14. No shares may be attributed to more than one group constituting an Eligible Stockholder under this Section 14 (and, for the avoidance of doubt, no stockholder may be a member of more than one group constituting an Eligible Stockholder). A record holder acting on behalf of one or more beneficial owners will not be counted separately as a stockholder with respect to the shares owned by beneficial owners on whose behalf such record holder has been directed in writing to act, but each such beneficial owner will be counted separately, subject to the other provisions of this paragraph (E), for purposes of determining the number of stockholders whose holdings may be considered as part of an Eligible Stockholder's holdings. For the avoidance of doubt, Proxy Access Request Required Shares will qualify as such if and only if the beneficial owner of such shares as of the date of the Proxy Access Notice has itself individually beneficially owned such shares continuously for the three-year (3-year) period ending on that date and through the other applicable dates referred to above (in addition to the other applicable requirements being met). Any Eligible Stockholder (including each Constituent Holder or fund comprising a Qualifying Fund and/or beneficial owner whose stock ownership is counted for the purposes of qualifying as an Eligible Stockholder) whose Stockholder Nominee is elected as a director at the annual meeting of stockholders will not be eligible to nominate or participate in the nomination of a Stockholder Nominee for the following two (2) annual meetings of stockholders other than the nomination of such previously elected Stockholder Nominee.

F. INFORMATION. No later than the final date when a Proxy Access Notice pursuant to this Section 14 may be delivered to the corporation, an Eligible Stockholder (including each Constituent Holder) must provide the following information in writing to the secretary of the corporation:

(1) with respect to each Constituent Holder, the name and address of, and number of shares of Voting Stock owned by such person;

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

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

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

(3) any information relating to such Eligible Stockholder (including any Constituent Holder) and their respective affiliates or associates or others acting in concert therewith, and any information relating to such Eligible Stockholder's Stockholder Nominee(s), in each case that would be required to be disclosed in a proxy statement and form of proxy or other filings required to be made in connection with solicitations of proxies for the election of such Stockholder Nominee(s) in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(4) a description of all direct and indirect compensation and other material monetary agreements, arrangements, and understandings during the past three (3) years, and any other material relationships, between or among the Eligible Stockholder (including any Constituent Holder) and its or their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each of such Eligible Stockholder's Stockholder Nominee(s), 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 Item 404 promulgated under Regulation S-K if the Eligible Stockholder (including any Constituent Holder), or any affiliate or associate thereof or person acting in concert there-with, were the "registrant" for purposes of such rule and the Stockholder Nominee were a director or executive officer of such registrant;

(5) a representation that such person:

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

(b) has not nominated and will not nominate for election to the board of directors at the annual meeting any person other than the Stockholder Nominee(s) being nominated pursuant to this Section 14;

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

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

(e) will provide facts, statements, and other information in all communications with the corporation and its stockholders that are and will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and will otherwise comply with all applicable laws, rules, and regulations in connection with any actions taken pursuant to this Section 14;

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

(7) an undertaking that such person agrees to:

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

(b) promptly provide such information to the corporation as the corporation may reasonably request; and

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

In addition, no later than the final date when a Proxy Access Notice pursuant to this Section 14 may be delivered to the corporation, a Qualifying Fund whose stock ownership is counted for purposes of qualifying as an Eligible Stockholder must provide to the secretary of the corporation documentation reasonably satisfactory to the board of directors that demonstrates that the funds included within the Qualifying Fund satisfy the definition thereof.

In order to be considered timely, any information required by this Section 14 to be provided to the corporation must be supplemented (by delivery to the secretary of the corporation) (1) no later than ten (10) days following the record date for the applicable annual meeting, to disclose the foregoing information as of such record date and (2) no later than the fifth day before the annual meeting, to disclose the foregoing information as of the date that is no earlier than ten (10) days prior to such annual meeting. For the avoidance of doubt, the requirement to update and supplement such information shall not permit any Eligible Stockholder or other person to change or add any proposed Stockholder Nominee or be deemed to cure any defects or limit the remedies (including without limitation under these bylaws) available to the corporation relating to any defect.

G. STATEMENT. The Eligible Stockholder may provide to the secretary of the corporation, at the time the information required by this Section 14 is originally provided, a written statement for inclusion in the corporation's proxy statement for the annual meeting, not to exceed five hundred (500) words, in support of the candidacy of such Eligible Stockholder's Stockholder Nominee(s) (the "Statement"). Notwithstanding anything to the contrary contained in this Section 14, the corporation may omit from its proxy materials any information or Statement that it, in good faith, believes is materially false or misleading, omits to state any material fact, or would violate any applicable law or regulation.

H. STOCKHOLDER NOMINEE REPRESENTATIONS. No later than the final date when a Proxy Access Notice pursuant to this Section 14 may be delivered to the corporation, each Stockholder Nominee must:

(1) provide an executed agreement, in a form deemed satisfactory by the board of directors or its designee (which form shall be provided by the corporation reasonably promptly upon written request of a stockholder), that such Stockholder Nominee:

(a) consents to being named in the corporation's proxy statement and a form of proxy card (and will not agree to be named in any other person's proxy statement or form of proxy card) as a nominee for election to the board of directors and to serving as a director of the corporation if elected;

(b) agrees, if elected, to adhere to the corporation's Corporate Governance Principles and Code of Business Conduct and all other publicly available corporation policies and guidelines applicable to directors;

(c) is not and will not become a party to any compensatory, payment, or other financial agreement, arrangement, or understanding with any person or entity other than the corporation in connection with his or her nomination to be a director of the corporation or with respect to his or her service or action as a director of the corporation that, in either such case, has not been disclosed to the corporation;

(d) is not and will not become a party to any agreement, arrangement, or understanding with any person or entity as to how the Stockholder Nominee would vote or act on any issue or question as a director;

(2) complete, sign, and submit all other questionnaires, representations, and agreements required of the corporation's directors generally; and

(3) provide such additional information required for stockholder notices pursuant to Section 13 of this Article IV and as necessary to permit the board of directors to determine if such one or more of the items contemplated by paragraph (J) below apply with respect to such Stockholder Nominee or if such Stockholder Nominee has any direct or indirect relationship with the corporation other than those relationships that have been deemed categorically immaterial pursuant to the corporation's corporate governance guidelines or is or has been subject to any event specified in Item 401(f) of Regulation S-K (or successor rule) of the Securities and Exchange Commission.

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

I. INELIGIBILITY. Any Stockholder Nominee who is included in the corporation's proxy materials for a particular annual meeting of stockholders but either (1) withdraws from or becomes ineligible or unavailable for election at that annual meeting (other than by reason of such Stockholder Nominee's disability or other health reason) or (2) does not receive votes cast in favor of the Stockholder Nominee's election at least equal 25% of the shares present in person or by proxy and entitled to vote at the meeting, will be ineligible to be a Stockholder Nominee pursuant to this Section 14 for the next two annual meetings. For the avoidance of doubt, any Stockholder Nominee who is included in the corporation's proxy statement for a particular annual meeting of stockholders, but subsequently is determined not to satisfy the eligibility requirements of this Section 14 or any other provision of these bylaws, the corporation's Certificate of Incorporation, or other applicable regulation any time before the annual meeting of stockholders, will not be eligible for election at the relevant annual meeting of stockholders.

J. DISQUALIFICATION. The corporation shall not be required to include, pursuant to this Section 14, a Stockholder Nominee in its proxy materials for any annual meeting of stockholders, or, if the proxy statement already has been filed, to allow the nomination of a Stockholder Nominee (and may

declare any such nomination ineligible), notwithstanding that proxies in respect of such vote may have been received by the corporation:

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

(2) who (x) is or has been, within the past three (3) years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, as amended, (y) is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in a criminal proceeding within the past ten years, or (z) is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended, or whose service as a member of the board of directors would violate or cause the corporation to be in violation of these bylaws, the corporation's Certificate of Incorporation, the rules and listing standards of any U.S. exchange upon which the common stock of the corporation is traded, or any applicable law, rule, or regulation;

(3) if the Eligible Stockholder (or any Constituent Holder) or applicable Stockholder Nominee otherwise breaches or fails to comply in material respect with its obligations pursuant to this Section 14 or any agreement, representation, or undertaking required by this Section;

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

(5) at any meeting of stockholders for which the secretary of the corporation receives a notice that a stockholder has nominated a person for election to the board of directors pursuant to Section 13 of this Article IV.

ARTICLE V.

DIRECTORS

SECTION 1. GENERAL POWERS. The property, business and affairs of the corporation shall be managed by its board of directors which may exercise all powers of the corporation and do all lawful acts and things as are not by statute or by the Certificate of Incorporation or by these bylaws directed or required to be exercised or done by the stockholders.

SECTION 2. NUMBER, TENURE AND QUALIFICATIONS. The directors shall be elected in the manner set forth in Article Ninth of the Certification of Incorporation of the corporation; however, if the corporation has outstanding any shares of one or more series of stock with conditional rights to elect a

set number of directors, and if the conditions precedent to the exercise of any such rights arise, the number of directors of the corporation shall be automatically increased to permit the exercise of the voting rights of each such series of stock. The term of office of directors shall be as provided in Article Ninth of the Certificate of Incorporation of the corporation. Directors need not be stockholders or residents of the State of Delaware. A majority of the directors shall be “independent” under the criteria set by any applicable law, regulation and/or listing standard.

At any meeting for the election of directors at which a quorum is present, each director shall be elected by the vote of a majority of the votes cast representing shares present in person or by proxy and entitled to vote at the meeting. However, if the number of nominees on the ballot for any election of directors exceeds the number of directors to be elected, then the directors shall be elected by the vote of a plurality of the votes cast representing shares present in person or by proxy and entitled to vote on the election of directors.

For the purposes hereof, a majority of the votes cast means that the number of shares voted “for” a director must exceed the number of votes cast “against” the election of that director. “Votes cast” shall not include abstentions. Ballots will not give stockholders the option to “withhold” votes from the election of directors, but rather will give the choice to vote “for” or “against” each director or to abstain.

Promptly (and in any event within 10 days) after each meeting for the election of directors, each incumbent director who did not receive a majority of the votes cast representing shares present in person or by proxy and entitled to vote at such meeting shall submit to the board of directors an irrevocable letter of resignation, which shall become effective upon acceptance by the board of directors. The board of directors will determine whether to accept or reject such resignation, or what other action should be taken, and publicly disclose and explain its decision on the corporation’s web site within 90 days from the date of the certification of election results. Any director not elected shall not participate in the board of director’s decision with respect to his or her resignation.

If the board of directors determines to accept the resignation of an unsuccessful incumbent, then the board of directors may fill the resulting vacancy pursuant to Article V, Section 3 of these bylaws or may decrease the size of the board of directors pursuant to the provisions of Article Ninth of the Certificate of Incorporation of the corporation. If the board of directors elects to fill the resulting vacancy, the corporate governance and nominating committee will promptly recommend a candidate to the board of directors to fill the office formerly held by the unsuccessful incumbent. The board of directors shall promptly consider and act upon the corporate governance and nominating committee’s recommendation. The corporate governance and nominating committee, in making its recommendation, and the board of directors, in acting on such recommendation, may consider any factors or other information that they determine appropriate and relevant.

The board of directors at its first meeting after each annual meeting, or as often as may be required, shall elect a chairman of the board.

SECTION 3. VACANCIES AND NEWLY CREATED DIRECTORSHIPS. Any vacancies on the board of directors or any newly created directorships shall be filled by the board of directors in the manner set forth in Article Ninth of the Certificate of Incorporation of the corporation.

SECTION 4. CATASTROPHE. During any emergency period following a national catastrophe due to enemy attack, or act of God, a majority of the surviving members of the board who have not been rendered incapable of acting due to physical or mental incapacity or due to the difficulty of transportation to the place of the meeting shall constitute a quorum for the purpose of filling vacancies on the board of directors and among the elected and appointed officers of the corporation.

SECTION 5. PLACE OF MEETINGS. The directors of the corporation may hold their meetings, both regular and special, at a place or places within or without the State of Delaware that the board of directors may from time to time determine.

SECTION 6. FIRST MEETING. The first meeting of the board of directors following the annual meeting of stockholders shall be held at the time and place that shall be fixed by the chairman of the board or the chief executive officer and shall be called in the same manner as a special meeting.

SECTION 7. REGULAR MEETINGS. Regular meetings of the board of directors may be held without notice at the time and place that shall from time to time be determined by the board of directors.

SECTION 8. SPECIAL MEETINGS. Special meetings of the board of directors may be called by the chairman of the board or the chief executive officer on three days' notice to each director, either personally or by mail, by telegram, or by facsimile or other lawful means; special meetings of the board of directors shall be called by the chairman of the board, chief executive officer, or secretary in like manner and upon like notice upon the written request of two directors.

SECTION 9. QUORUM. At all meetings of the board of directors, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting, at which there is a quorum present, shall be the act of the board of directors, except as may be otherwise specifically provided by statute, the Certificate of Incorporation or by these bylaws. If at any meeting of the board of directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time without notice, other than by announcement at the meeting, until a sufficient number of directors to constitute a quorum shall attend. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting as originally notified.

SECTION 10. BUSINESS TO BE CONDUCTED. Unless otherwise indicated in the notice, any and all business may be transacted at a regular or special meeting of the board of directors. In the event a special meeting of the board of directors is held without notice, any and all business may be transacted at the meeting provided all directors are present.

SECTION 11. ORDER OF BUSINESS. At all meetings of the board of directors, business shall be transacted in the order that from time to time the board may determine by resolution. At all meetings of

the board of directors the chairman of the board or in his absence the chief executive officer shall preside. In the absence of the chairman and the chief executive officer, the directors present shall elect any director as chairman of the meeting.

SECTION 12. COMPENSATION OF DIRECTORS. Directors of the corporation shall receive the compensation for their services that the board of directors may from time to time determine and all directors shall be reimbursed for their expenses of attendance at each regular or special meeting of the board or any committee thereof.

SECTION 13. COMMITTEES. The board of directors may, by resolution passed by a majority of the board, designate one or more committees. Each such committee shall consist of one or more of the directors of the corporation, such number to be set by resolution of the board of directors. Any committee, to the extent provided in the resolution, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it. Any committee or committees shall have the name or names that may be determined from time to time by resolution adopted by the board of directors. Other than for a committee of one director, the chairman of the board and the chief executive officer shall be ex officio members of any board committee except the audit committee, the management development and compensation committee, and the corporate governance and nominating committee.

SECTION 14. AUDIT COMMITTEE. The Audit Committee shall be governed by the Audit Committee Charter, as adopted, amended, modified, or supplemented from time to time by the board of directors, which shall set forth the membership, authority, and responsibilities of the Audit Committee. The Audit Committee Charter shall be issued, modified, amended, supplemented, or repealed only by a majority vote of the full board of directors.

SECTION 15. MANAGEMENT DEVELOPMENT AND COMPENSATION COMMITTEE. The Management Development and Compensation (“MD&C”) Committee shall be governed by the MD&C Committee Charter, as adopted, amended, modified, or supplemented from time to time by the board of directors, which shall set forth the membership, authority, and responsibilities of the MD&C Committee. The MD&C Committee Charter shall be issued, modified, amended, supplemented, or repealed only by a majority vote of the full board of directors.

SECTION 16. CORPORATE GOVERNANCE AND NOMINATING COMMITTEE. The Corporate Governance and Nominating Committee shall be governed by the Corporate Governance and Nominating Committee Charter, as adopted, amended, modified, or supplemented from time to time by the board of directors, which shall set forth the membership, authority, and responsibilities of the Corporate Governance and Nominating Committee. The Corporate Governance and Nominating Committee Charter shall be issued, modified, amended, supplemented, or repealed only by a majority vote of the full board of directors.

SECTION 17. ELECTION OF OFFICERS. At the first meeting of the board of directors in each year, at which a quorum shall be present, following the annual meeting of the stockholders of the corporation, the board of directors shall proceed to the election of the officers of the corporation, except regional or staff officers who are subject to appointment in accordance with Section 18 of Article VI of these bylaws.

SECTION 18. ACTION WITHOUT MEETING. Any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting, if prior to the action a written consent thereto is signed by all members of the board of directors or of the committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the board of directors or committee.

SECTION 19. WAIVER OF NOTICE. Whenever any notice whatever is required to be given pursuant to the provisions of a statute, the Certificate of Incorporation or these bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE VI.

OFFICERS

SECTION 1. OFFICERS. The officers of the corporation shall be (a) a chief executive officer, president, one or more executive vice presidents, each other executive "officer" for purposes of Section 16 of the Securities Exchange Act of 1934, as amended, and a secretary, controller, treasurer, and head of internal audit, all as the board of directors may provide for and elect and (b) one or more senior vice presidents, vice presidents, and such assistant vice presidents, assistant secretaries, assistant treasurers, and assistant controllers as the chief executive officer may appoint or as the board of directors may elect. Any two or more offices may be held by the same person. The board of directors may appoint such other officers as they shall deem necessary, who shall have the authority and shall perform the duties that from time to time may be prescribed by the board of directors. In its discretion, the board of directors by a vote of a majority thereof may leave unfilled for any period that it may fix by resolution any office except those of president, treasurer, and secretary. The board of directors may designate a chief financial officer and a chief accounting officer from among the officers elected by the board. The chief financial officer shall be the corporation's principal financial officer and the chief accounting officer shall be the corporation's principal accounting officer for purposes of the Securities Exchange Act of 1934, as amended. Officers appointed by the chief executive officer shall not perform "policy-making functions" as defined pursuant to Section 16 or any successor section(s) of the Securities Exchange Act of 1934, as amended, and shall be deemed not to be subject to such Section 16 and the rules and regulations promulgated thereunder.

SECTION 2. ELECTION. The board of directors at its first meeting after each annual meeting of the stockholders or at any regular or special meeting shall elect, as may be required, a chief executive officer, president, one or more executive vice presidents, each other executive "officer" for purposes of Section 16 of the Securities Exchange Act of 1934, as amended, and a secretary, treasurer, controller, and head of internal audit.

SECTION 3. TENURE. The officers of the corporation shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the board of directors may be removed at any time by the affirmative vote of a majority of the board of directors. Any officer appointed by the chief executive officer may be removed at any time by the chief executive officer of the corporation.

SECTION 4. SALARIES. The salaries of the officers of the corporation at the level of executive vice president or above shall be recommended by the management development and compensation committee and approved by the board of directors.

SECTION 5. VACANCIES. If the office of any officer of the corporation elected by the board of directors becomes vacant by reason of death, resignation, disqualification or otherwise, the directors by a majority vote, may choose his successor or successors.

SECTION 6. RESIGNATION. Any officer may resign his office at any time, such resignation to be made in writing and take effect at the time of receipt by the corporation, unless some time be fixed in the resignation and then from that time. The acceptance of a resignation shall not be required to make it effective.

SECTION 7. DELEGATION OF DUTIES. Duties of officers may be delegated in case of the absence of any officer of the corporation or for any reason that the board of directors may deem sufficient.

The board of directors may delegate the powers or duties of the officer to any other officer or to any director, except as otherwise provided by statute, for the time being, provided a majority of the entire board of directors concurs therein.

SECTION 8. CHIEF EXECUTIVE OFFICER. The chief executive officer shall be the chief executive officer of the corporation and shall have, subject to the direction of the board of directors, general control and management of the corporation’s business and affairs and shall also see that all the policies and resolutions of the board of directors are carried into effect, subject, however, to the right of the board of directors to delegate any specific powers, except such as may be by statute exclusively conferred on the president or to any other officer or officers of the corporation. He shall preside at all meetings of stockholders and the board of directors at which he may be present and from which the chairman of the board may be absent.

SECTION 9. PRESIDENT. The president shall perform those duties that shall be specifically assigned to him from time to time by the chief executive officer or the board of directors. In the absence of the chief executive officer or in the event of his death, inability or refusal to act, the president shall perform the duties of the chief executive officer, and when so acting shall have the powers of and be subject to all the restrictions upon the chief executive officer.

SECTION 10. EXECUTIVE VICE PRESIDENTS, SENIOR VICE PRESIDENTS, AND VICE PRESIDENTS. In the absence of the president or in the event of his death, inability or refusal to act, the

senior executive vice president present shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. In the absence of the president and all executive or senior vice presidents, or in the event of their deaths, inability or refusal to act, a vice president designated by the board of directors, or in case the board of directors has failed to act, designated by the chief executive officer, shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president. The executive vice presidents, the senior vice presidents, and all other vice presidents shall perform those duties consistent with these bylaws and that may be specifically designated by the chief executive officer, the president, or the board of directors.

SECTION 11. ASSISTANT VICE PRESIDENTS. The assistant vice presidents shall perform those duties, not inconsistent with these bylaws, the Certificate of Incorporation or statute that may be specifically designated by the board of directors, the chief executive officer, or the president. In the absence of the executive vice presidents, senior vice presidents, or vice presidents, an assistant vice president (or in the event there be more than one assistant vice president, the assistant vice presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the executive vice presidents, senior vice presidents or vice presidents, and when so acting, shall have all the powers of and be subject to all restrictions upon the executive vice presidents, the senior vice presidents, and vice presidents.

SECTION 12. SECRETARY. The secretary shall attend and keep all the minutes of all meetings of the board of directors and all meetings of the stockholders and, when requested by the board of directors, of any committees of the board of directors. He shall give, or cause to be given, notice of all meetings of the stockholders and board of directors and when so ordered by the board of directors, shall affix the seal of the corporation thereto; he shall have charge of all of those books and records that the board of directors may direct, all of which shall, at all reasonable times, be open to the examination of any director at the office of the corporation during business hours; he shall, in general, perform all of the duties incident to the office of secretary subject to the control of the board of directors, the chief executive officer, or the president, under whose supervision he shall be, and shall do and perform any other duties that may from time to time be assigned to him by the board of directors.

SECTION 13. ASSISTANT SECRETARIES. In the absence of the secretary or in the event of his death, inability or refusal to act, the assistant secretary (or in the event there be more than one assistant secretary, the assistant secretaries in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the secretary and shall perform any other duties that may from time to time be assigned to him by the board of directors, the chief executive officer, the president, or the secretary.

SECTION 14. TREASURER. The treasurer shall have custody of and be responsible for all funds and securities of the corporation, receive and give receipts for money due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in those banks or depositories that shall be selected and designated by the board of directors and shall in general perform all

of the duties incident to the office of treasurer and any other duties that may be assigned to him by the chief financial officer, the president, the chief executive officer, or the board of directors. If required by the board of directors, the treasurer shall give bond for the faithful discharge of his duties in the sum and with the surety or sureties as the board of directors shall determine.

SECTION 15. ASSISTANT TREASURERS. In the absence of the treasurer or in the event of his death, inability or refusal to act, the assistant treasurer (or in the event there be more than one assistant treasurer, the assistant treasurers in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the treasurer and when so acting shall have all the powers and be subject to all the restrictions upon the treasurer, and shall perform any other duties that from time to time may be assigned to him by the chief executive officer, the president, the chief financial officer, the treasurer, or the board of directors. The assistant treasurers shall, if required by the board of directors, give bonds for the faithful discharge of their duties in the sums and with the surety or sureties that the board of directors shall determine.

SECTION 16. CONTROLLER. The controller shall maintain adequate records of all assets, liabilities and transactions of the corporation; see that adequate audits thereof are currently and regularly made; and, in conjunction with other officers and department heads, initiate and enforce measures and procedures whereby the business of the corporation shall be conducted with the maximum safety, efficiency and economy. Except as otherwise determined by the board of directors, or lacking a determination by the board of directors, then by the president, his duties and powers shall extend to all subsidiary corporations and, so far as may be practicable, to all affiliate corporations. He shall have any other powers and perform other duties that may be assigned to him by the chief executive officer, the president, the chief financial officer, or the board of directors. If required by the board of directors, the controller shall give bond for the faithful discharge of his duties in the sum and with the surety or sureties as the board of directors shall determine.

SECTION 17. ASSISTANT CONTROLLERS. In the absence of the controller or in the event of his death, inability or refusal to act, the assistant controller (or in the event there be more than one assistant controller, the assistant controllers, in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the controller and when so acting shall have all the powers and be subject to all the restrictions upon the controller, and shall perform any other duties that from time to time may be assigned to him by the chief executive officer, the president, the chief financial officer, the controller, or the board of directors. The assistant controllers shall, if required by the board of directors, give bonds for the faithful discharge of their duties in the sums and with the surety or sureties that the board of directors shall determine.

SECTION 18. REGIONAL VICE PRESIDENTS.

A. ELECTION. One or more regional vice presidents may be appointed by the chief executive officer, or the authority for such appointments may be delegated by the chief executive officer to the president of the corporation.

B. TENURE. The regional vice presidents appointed by the chief executive officer or the president of the corporation shall hold office until their successors are chosen and qualify in their stead. Any regional vice president so appointed may be removed at any time by the chief executive officer or the president of the corporation.

C. DUTIES. The regional vice presidents shall do and perform those duties that shall from time to time be specifically designated or assigned by the chief executive officer or the president of the corporation; however, the regional vice presidents shall not perform "policy-making functions" as defined pursuant to Section 16 or any successor section(s) of the Securities Exchange Act of 1934, as amended, and shall be deemed not to be subject to such Section 16 and the rules and regulations promulgated thereunder.

ARTICLE VII.

INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS

SECTION 1. RIGHT TO INDEMNIFICATION.

A. PROCEEDINGS BY THIRD PARTIES. The board of directors shall cause the corporation to indemnify and hold harmless, to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), any person (and that person's heirs and personal representatives) who was or is a party or is threatened or expected to be made a party to any threatened, pending, or completed action, suit, arbitration, alternative dispute resolution procedure, investigation, or other threatened, actual, or completed proceeding, whether civil, criminal, administrative, investigative, or private in nature and irrespective of the initiator thereof, including any appeal of any such proceeding (each, a "Proceeding") (other than a Proceeding by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, partner, or agent of another corporation, partnership (including a partnership in which the corporation is a partner), limited liability company, joint venture, trust, non-profit entity, including service with respect to employee benefit plans, or other entity or enterprise (in such capacity, an "Authorized Person"), against any and all Expenses (as hereinafter defined), judgments, damages, arbitration awards, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such Proceeding, including any interest payable thereon, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal Proceeding, had no reasonable cause to believe his conduct was unlawful.

B. PROCEEDINGS BY OR IN THE RIGHT OF THE CORPORATION. The board of directors shall indemnify and hold harmless any person (and that person's heirs and personal representatives) who was or is a party or is threatened or expected to be made a party to any Proceeding by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was an Authorized Person against Expenses actually and reasonably incurred by him in connection with the defense or settlement of such Proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation; provided, however, that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the Court of Chancery of the State of Delaware shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of the State of Delaware shall deem proper.

SECTION 2. EXPENSES.

A. REIMBURSEMENT OF EXPENSES. To the extent that an Indemnitee (as hereinafter defined) has been successful on the merits or otherwise in defense of any Proceeding, or in defense of any claim, issue, or matter therein, he shall be indemnified against Expenses actually and reasonably incurred by him in connection therewith.

B. ADVANCEMENT OF EXPENSES TO DIRECTORS AND OFFICERS. The board of directors shall cause the corporation to advance to any Indemnitee who is or was a director or officer of the corporation the Expenses incurred by such Indemnitee, from time to time, in defending a Proceeding, in each case, within ten (10) calendar days after the corporation's receipt of a statement from such Indemnitee requesting an advance, whether prior to or after final disposition of the applicable Proceeding; provided, however, that the corporation will have no obligation to advance Expenses if such advance will be in violation of applicable law. Each such statement must include an undertaking by or on behalf of that Indemnitee to repay any Expenses advanced if it is ultimately determined that the Indemnitee is not legally entitled to indemnification by the corporation and shall specifically state that no bond, collateral, or other security shall be required by such officer or director to insure his performance and that no interest on any amount advanced shall be required to be paid to the corporation if the officer or director is determined ultimately to be not legally entitled to indemnification by the corporation. The corporation will accept any such undertaking without reference to the financial ability of Indemnitee to make repayment.

C. ADVANCEMENT OF EXPENSES TO EMPLOYEES AND AGENTS. The board of directors shall cause the corporation to advance to any Indemnitee who is not a present or past director or officer of the corporation the Expenses incurred by such Indemnitee, from time to time, in defending a Proceeding, in each case, in advance of the final disposition of such Proceeding; provided, however, that any such advance shall be conditional upon evidence of compliance with the terms and conditions, if any, deemed appropriate and specified by the board of directors for such advance if it is ultimately determined that such Indemnitee is not legally entitled to indemnification by the corporation.

D. EXPENSES INCURRED IN ENFORCING RIGHTS. The board of directors shall cause the corporation to advance to any Indemnitee, in accordance with this Section 2, all Expenses incurred by such Indemnitee in enforcing his rights to indemnification and/or advancement of Expenses under this Article VII, including Expenses incurred in preparing and forwarding statements to the corporation to support the advances claimed, whether or not such Indemnitee is successful in enforcing such rights and whether or not Proceedings are commenced.

SECTION 3. DETERMINATION OF ENTITLEMENT TO INDEMNIFICATION.

A. PROCEDURE. Any indemnification hereunder (unless ordered by the Court of Chancery of the State of Delaware) shall be made by the corporation upon a determination that indemnification is proper under the circumstances because the Indemnitee has met the applicable standard of conduct set forth in this Article VII. All such determinations shall be made by the board of directors within 30 calendar days after the corporation receives a statement from an Indemnitee requesting indemnification in respect of a Proceeding under this Article VII. Notwithstanding the foregoing, with respect to an Indemnitee who is or was a director or officer of the corporation, such determination shall be made: (i) by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum, or (ii) by a committee of directors designated by majority vote of such Disinterested Directors, even though less than a quorum, or (iii) if there are no Disinterested Directors, or if such Disinterested Directors so direct, in writing by Independent Counsel (as hereinafter defined); provided, however, that, if a Change of Control (as hereinafter defined) shall have occurred, then such determination shall be made in writing by Independent Counsel. The corporation shall promptly inform the Indemnitee in writing of a determination under this subsection regarding the propriety of indemnification.

B. PRESUMPTIONS. In making a determination with respect to the entitlement of any Indemnitee to indemnification under this Article VII, the Indemnitee shall be presumed to be entitled to such indemnification upon submission to the corporation of a statement requesting indemnification in respect of such Proceeding under this Article VII. The presumption shall be used by the person or persons determining entitlement to indemnification as a basis for such determination, unless the corporation provides information sufficient to overcome such presumption by clear and convincing evidence. Furthermore, the termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person (i) did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation and (ii) with respect to any criminal Proceeding, had reasonable cause to believe that his conduct was unlawful.

C. PAYMENTS. If it is determined that any Indemnitee is entitled to indemnification under this Article VII, then the corporation shall thereafter, on written request by such Indemnitee, pay to such Indemnitee, within ten (10) calendar days after the corporation’s receipt of such request, such amounts theretofore incurred by or on behalf of such Indemnitee in respect of which such Indemnitee is entitled to that indemnification by reason of that determination.

D. EXPENSES. Any Indemnitee shall be entitled to be indemnified against the Expenses actually and reasonably incurred by such Indemnitee in cooperating with the person or persons making the determination of entitlement to indemnification (irrespective of the determination as to the Indemnitee's entitlement to indemnification) and, to the extent successful, in connection with any Proceeding with respect to the determination of such Indemnitee's entitlement to indemnification or the enforcement thereof.

SECTION 4. INDEMNIFICATION FUND. The board of directors, in its sole discretion, may establish and may fund in advance and from time to time, in whole or in part, a separate provision or provisions, which may be in the form of a trust fund, periodic or advance retainers to counsel, or otherwise as the board of directors may determine in each instance, to be used as payment and/or advances of indemnification obligations under this Article VII; provided, however, that any amount which is contributed to such fund shall not in any way be construed to be a limitation on the amount of indemnification and/or advances of the corporation.

SECTION 5. INSURANCE. The corporation may maintain insurance, at its expense, to protect itself and any Indemnitee who is or was a director or officer of the corporation against any expenses, liabilities, or losses, whether or not the corporation would have the power to indemnify such person against such expenses, liabilities, or losses under the General Corporation Law of the State of Delaware; provided, however, that, for a period of six (6) years after any Change of Control, the corporation shall maintain, at its expense, policies of directors' and officers' liability insurance providing coverage at least comparable to and in the same amounts as that provided by any such policies in effect immediately prior to such Change of Control.

SECTION 6. CONTRIBUTION. If it is determined that any Indemnitee is entitled to indemnification under this Article VII, but that right is unenforceable by reason of any applicable law or public policy, then, to the fullest extent applicable law permits, the corporation, in lieu of indemnifying or causing the indemnification of such Indemnitee, shall contribute or cause to be contributed to the amount that such Indemnitee has incurred, whether for judgments, fines, penalties, excise taxes, amounts paid, or to be paid in settlement or for Expenses reasonably incurred, in connection with the applicable Proceeding, in such proportion as is deemed fair and reasonable in light of all the circumstances of such Proceeding in order to reflect: (i) the relative benefits that such Indemnitee and the corporation have received as a result of the event(s) or transaction(s) giving rise to the Proceeding or (ii) the relative fault of such Indemnitee and of the corporation in connection with those event(s) or transaction(s).

SECTION 7. MISCELLANEOUS.

A. NO CONDITIONS OR LIMITATIONS. Except as expressly set forth in this Article VII or required by applicable law, there shall be no conditions or limitations on an Indemnitee's rights to indemnification or advancement of Expenses hereunder.

B. AMENDMENTS. Any amendment to this Article VII shall only apply prospectively and shall in no way affect the corporation's obligations to indemnify and make advances to any Indemnitee as set forth in this Article VII for actions or events which occurred before any such amendment, and provided that any amendment to this Article VII shall require the unanimous vote of the board of directors.

C. NON-EXCLUSIVITY. The rights to indemnification and advancement of Expenses and the remedies this Article VII provides are not and will not be deemed exclusive of any other rights or remedies to which any Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, any agreement, a vote of the corporation's stockholders or Disinterested Directors, or otherwise, but each such right or remedy under this Article VII will be cumulative with all such other rights and remedies.

D. EQUIVALENCE TO CONTRACTUAL RIGHTS. The rights to indemnification and advancement of Expenses and the remedies this Article VII provides shall be considered the equivalent of a contract right that vests upon the occurrence or alleged occurrence of any act or omission that forms the basis for or is related to the claim for which indemnification is sought by an Indemnitee, to the same extent as if the provisions of this Article VII were set forth in a separate, written contract between such Indemnitee and the corporation.

E. DETRIMENTAL RELIANCE. Any person who at any time on or after the adoption of this Article VII serves or has served in any of the capacities indicated in this Article VII shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein.

F. NO IMPUTATION OF KNOWLEDGE OR CONDUCT. For purposes of making a determination under this Article VII with respect to whether any Indemnitee is entitled to indemnification, neither the knowledge nor the conduct of any other director, officer, manager, administrator, employee, agent, representative, or other functionary of the corporation shall be imputed to such Indemnitee.

G. FORUM, JURISDICTION, AND VENUE. Each Indemnitee, by seeking any indemnification or advancement of Expenses under this Article VII, shall be deemed: (i) to have agreed that any proceeding arising out of or in connection with this Article VII must be brought only in the Court of Chancery of the State of Delaware and not in any other state or federal court in the United States of America or any court in any other country, (ii) to have consented to submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware for purposes of any proceeding arising out of or in connection with this Article VII, (iii) to have waived any objection to the laying of venue of any such proceeding in the Court of Chancery of the State of Delaware, and (iv) to have waived, and to have agreed not to plead or to make, any claim that any such proceeding brought in the Court of Chancery of the State of Delaware has been brought in an improper or otherwise inconvenient forum.

SECTION 8. DEFINITIONS. For purposes of this Article VII:

(1) "Affiliate" has the meaning ascribed to such term in Rule 12b-2 of the Securities Exchange Act of 1934, as amended.

(2) “Change of Control” means (i) any individual, entity, or group (including within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended) (a “person”) becomes the beneficial owner (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended) of 20% or more of either (a) the then-outstanding shares of common stock of the corporation (the “Outstanding Common Stock”) or (b) the combined voting power of the then-outstanding voting securities of the corporation entitled to vote generally in the election of directors (the “Outstanding Voting Securities”); provided, however, that, for purposes of this Article VII, the following acquisitions shall not constitute a Change of Control: (I) any acquisition of Outstanding Common Stock or Outstanding Voting Securities directly from the corporation that is approved by the Incumbent Board (as hereinafter defined), (II) any acquisition of Outstanding Common Stock or Outstanding Voting Securities by the corporation, (III) any acquisition of Outstanding Common Stock or Outstanding Voting Securities by any employee benefit plan (or related trust) sponsored or maintained by the corporation or any Affiliate thereof, or (IV) any acquisition of Outstanding Common Stock or Outstanding Voting Securities in a transaction that is part of a Business Combination that complies with clauses (iii)(a), (iii)(b), and (iii)(c) of this definition; (ii) individuals who, as of October 28, 2019, constitute the board of directors (the “Incumbent Board”) cease for any reason to constitute at least a majority of the board of directors; provided, however, that any individual becoming a director subsequent to October 28, 2019 whose election, or nomination for election, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual was a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the board of directors; (iii) consummation of a reorganization, merger, statutory share exchange, or consolidation or similar transaction involving the corporation, a sale or other disposition of all or substantially all of the assets of the corporation (including by sale, reorganization, merger, statutory share exchange, or consolidation or similar transaction involving the shares of all or substantially all of the corporation’s subsidiaries), or the acquisition of assets or securities of another entity by the corporation or any of its subsidiaries (each, a “Business Combination”), in each case, unless, following such Business Combination, (a) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Common Stock and the Outstanding Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the corporation or all or substantially all of the corporation’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination, and (b) no person (excluding any entity resulting from such Business Combination or any employee benefit plan (or related trust) of the corporation or such entity resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of, respectively, the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) of the entity resulting from such Business Combination or

the combined voting power of the then-outstanding voting securities of such entity, except to the extent that such ownership existed prior to the Business Combination, and (c) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement and at the time of the action of the board of directors providing for such Business Combination; or (iv) approval by the stockholders of the corporation of a complete liquidation or dissolution of the corporation.

(3) "Disinterested Director" means, with respect to any Proceeding in respect of which indemnification is sought by an Indemnitee under this Article VII, a director of the corporation who is not and was not (i) a party to such Proceeding, (ii) a party to any claim for damages, or to any declaratory, equitable, or other substantive remedy, or to any other issue or matter in such Proceeding or Proceeding therein or related thereto, and (iii) during the last ten (10) years an Affiliate of such Indemnitee.

(4) "Expenses" include all attorneys' fees, expert fees, witness fees, bonds, prospective and retrospective insurance premiums or costs, litigation, appeal and court costs, including, without limitation, retainers, transcript costs, and travel expenses, and all other disbursements and expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding, including any interest payable thereon. Should any payments by the corporation to or for the account of any Indemnitee under this Article VII be determined to be subject to any federal, state, or local income or excise tax, "Expenses" also include such amounts as are necessary to place the Indemnitee in the same after-tax position, after giving effect to all applicable taxes, that such Indemnitee would have been in had no such tax been determined to apply to those payments.

(5) "Indemnitee" means any Authorized Person making a claim for indemnification or advancement of Expenses under this Article VII.

(6) "Independent Counsel" means a law firm that is experienced in matters of corporation law and neither presently is, nor in the ten (10) years previous to its selection or appointment has been, retained to represent: (i) the corporation, the Indemnitee, or any of their respective Affiliates; (ii) any other party to the Proceeding giving rise to a claim for indemnification; or (iii) any direct or indirect beneficial owner of securities of the corporation representing 20% or more of the combined voting power of the corporation's then outstanding voting securities. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any law firm or person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the corporation or the Indemnitee in an action to determine the Indemnitee's rights to indemnification under these Bylaws.

ARTICLE VIII.

CONTRACTS, LOANS, CHECKS AND DEPOSITS

SECTION 1. CONTRACTS. The board of directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances.

SECTION 2. LOANS. No loan shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name, unless authorized by resolution of the board of directors. Such authority may be general or confined to specific instances.

SECTION 3. CHECKS, DRAFTS, ETC. All checks, drafts or other order or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents and in such manner that shall from time to time be determined by resolution of the board of directors.

SECTION 4. DEPOSITS. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in the bank or banks or other depositories that the board of directors may elect.

ARTICLE IX.

VOTING OF STOCK OF OTHER CORPORATIONS

Unless otherwise ordered by the board of directors, the chief executive officer, the president, each executive vice president, and each senior vice president shall have full power and authority on behalf of the corporation to act and vote at any meeting of stockholders of any corporation in which the corporation may hold stock, and at any such meeting, shall possess, and may exercise, any and all of the rights and powers incident to the ownership of the stock, which, as the owner thereof, the corporation might have possessed and exercised if present. The board of directors by resolution from time to time, may confer like powers upon any other person or persons.

ARTICLE X.

NOTICES

SECTION 1. FORM OF NOTICE. Whenever under the provisions of the statutes, the Certificate of Incorporation, or these bylaws, notice is required to be given to any director or stockholder, it shall not be construed to mean personal notice, but the notice may be given in writing by mail, which shall mean depositing same in a United States Postal Service post office or letter box, in a postage paid, sealed envelope, addressed to the stockholder or director at the address that appears on the books of the corporation or, in default of other address, to such director or stockholder at the United States Postal Service general post office in the City of Wilmington, Delaware, and the notice shall be deemed to be given at the time when the same shall be thus mailed or by any other means expressly provided for in these bylaws.

SECTION 2. WAIVER OF NOTICE. Whenever any notice is required to be given under the provision of the statutes, the Certificate of Incorporation or these bylaws, a waiver thereof in writing signed by the person or persons entitled to the notice whether before or after the time stated therein shall be deemed equivalent thereto.

ARTICLE XI.

STOCK CERTIFICATES

SECTION 1. CERTIFICATED AND UNCERTIFICATED SHARES. Shares of the capital stock of the corporation may be certificated or uncertificated, as provided by the laws of the State of Delaware. The certificates for shares of the capital stock of the corporation shall be in the form, not inconsistent with the Certificate of Incorporation, that shall be approved by the board of directors. The certificate shall be signed by the chairman of the board, chief executive officer, president or a vice president, and either the treasurer or an assistant treasurer, or the secretary or an assistant secretary, but where the certificate is signed by a transfer agent or an assistant transfer agent and a registrar, the signatures of the chairman of the board, chief executive officer, president, vice president, treasurer, assistant treasurer, secretary or assistant secretary may be facsimiles. All certificates shall be consecutively numbered, and the name of the person owning the shares represented thereby, with the number of shares and the date of issue shall be entered in the corporation’s books. No certificate shall be valid unless it is signed by the chairman of the board, chief executive officer, president, or a vice president, and either the treasurer or an assistant treasurer, or the secretary or an assistant secretary, but where the certificate is signed by a transfer agent or an assistant transfer agent and a registrar, the signatures of the chairman of the board, chief executive officer, president, vice president, treasurer, assistant treasurer, secretary or assistant secretary may be facsimiles. All certificates surrendered to the corporation shall be canceled, and no new certificates shall be issued until the former certificate for the same number of shares of the same class shall have been surrendered and canceled.

SECTION 2. TRANSFER OF SHARES. Shares of the capital stock of the corporation shall be transferred only on the books of the corporation by the holder thereof in person or by his attorney and, in the case of certificated shares, upon surrender and cancellation of certificates for the same number of shares.

SECTION 3. REGULATIONS. The board of directors shall have authority to make any rules and regulations that they may deem expedient concerning the issue, transfer and registration of certificates for shares of the capital stock of the corporation. The board of directors may appoint one or more transfer agents or assistant transfer agents and one or more registrars of transfers and may require all certificates to bear the signature of the transfer agent or assistant transfer agent and a registrar of transfers. The board of directors may at any time terminate the appointment of any transfer agent or any assistant transfer agent or any registrar of transfers by the vote of a majority of the board of directors.

SECTION 4. FIXING DATE FOR DETERMINATION OF STOCKHOLDERS' RIGHTS. The board of directors may close the stock transfer books of the corporation for a period not exceeding 60 days preceding the date of any meeting of stockholders, or the date for payment of any dividend, or the date for the allotment of rights, or the date when any change or conversion or exchange of capital stock shall go into effect, or for a period not exceeding 60 days in connection with obtaining the consent of stockholders for any purpose. In lieu of closing the stock transfer books as aforesaid, the board of directors may fix a date not exceeding 60 days preceding the date of any meeting of stockholders, or the date for the payment of any dividend, or the date for the allotment of rights, or the date when any change or conversion or exchange of capital stock shall go into effect, or a date in connection with obtaining such consent, as a record date for the determination of the stockholders entitled to notice of, and to vote at, any meeting and any adjournment thereof, or entitled to receive payment of any dividend, or to any allotment of rights, or to exercise the rights in respect of any change, conversion or exchange of capital stock, or to give such consent, and in such case the stockholders and only the stockholders that shall be stockholders of record on the date so fixed shall be entitled to the notice or to receive payment of the dividend, or to receive the allotment of rights, or to exercise the rights or to give such consent, as the case may be, notwithstanding any transfer of any stock on the books of the corporation after any record date fixed as aforesaid.

SECTION 5. REGISTERED STOCKHOLDERS. The corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim to or interest in the share or shares on the part of any other person whether or not it shall have express or other notice thereof except as otherwise provided by the laws of the State of Delaware.

SECTION 6. LOST CERTIFICATES. The board of directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost or destroyed, upon the making of an affidavit of that fact with the person claiming the certificate of stock to be lost or destroyed. When authorizing the issue of a new certificate or certificates, the board of directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of the lost or destroyed certificate or certificates, or his legal representative, to advertise the same in a manner that it shall require for each share of stock having voting power registered in his name and to give the corporation a bond in the sum that it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost or destroyed.

SECTION 7. DIVIDENDS. The board of directors may from time to time declare, and the corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and the Certificate of Incorporation.

SECTION 8. RESERVE FUNDS. Before payment of any dividend there may be set aside out of any funds of the corporation available for dividends the sum or sums that the board of directors may from time to time in their absolute discretion think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for any other purpose that the directors shall think conducive to the interest of the corporation and the board of directors may modify or abolish the reserve in the manner in which it was created.

ARTICLE XII.

GENERAL PROVISIONS

SECTION 1. FISCAL YEAR. The fiscal year of the corporation shall begin on the first day of January in each year.

SECTION 2. INSPECTION OF BOOKS. The board of directors shall determine from time to time whether, and if allowed, when and under what conditions and regulations, the accounts and books of the corporation (except as may be by statute specifically open to inspection) or any of them, shall be open to the inspection of the stockholders, and a stockholder's rights in this respect are, and shall be, restricted and limited accordingly.

SECTION 3. GENDER. The use of the masculine gender in these bylaws shall be deemed to include the feminine gender.

ARTICLE XIII.

AMENDMENTS TO AND SUSPENSION OF BYLAWS

SECTION 1. AMENDMENTS. Subject to the provisions of Section 12 of Article IV, these bylaws may be altered or repealed at any regular meeting of the stockholders or at any special meeting of the stockholders at which a quorum is present or represented, provided notice of the proposed alteration or repeal be contained in the notice of the special meeting, by the affirmative vote of a majority of the stockholders entitled to vote at the meeting and present or represented thereat, or by the affirmative vote of a majority of the board of directors at any regular meeting of the board of directors or at any special meeting of the board of directors, if notice of the proposed alteration or repeal be contained in the notice of the special meeting.

SECTION 2. SUSPENSION. Any provision of these bylaws may be suspended by vote of two-thirds of the votes cast upon the motion to suspend except that the suspension of the bylaw provision might be in contravention of any provision of any statute or of the Certificate of Incorporation.

* * *

Exhibit 4.1

NUMBER
SSP _____

[Vignette]

_____
SHARES

APA
CORPORATION

INCORPORATED UNDER THE LAWS
OF THE STATE OF DELAWARE

COMMON STOCK

COMMON STOCK

This Certifies that _____

CUSIP
SEE REVERSE FOR CERTAIN DEFINITIONS

PAR VALUE
$ EACH

is the owner of _____

CERTIFICATE OF STOCK

FULLY PAID AND NON-ASSESSABLE SHARES OF THE COMMON STOCK OF APA Corporation, transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.

Witness the signatures of its duly authorized officers.

Countersigned and Registered:
EQUINITI TRUST COMPANY
TRANSFER AGENT
AND REGISTRAR

/s/
CHAIRMAN

/s/
SECRETARY

By _____
AUTHORIZED SIGNATURE

DATED: _____

APA CORPORATION

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	— as tenants in common	UNIF TRF MIN ACT —	_____ Custodian _____
TEN ENT	— as tenants by the entireties		(Cust) (Minor)
JT TEN	— as joint tenants with right of survivorship and not as tenants in common		under Uniform Transfers to Minors Act _____ (State)

Additional abbreviations may also be used though not in the above list.

For value received, _____ hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE

_____ Shares of the capital stock represented by the within Certificate, and do hereby irrevocably constitute and appoint _____

Attorney to transfer the said stock on the books of the within-named Corporation with full power of substitution in the premises.

Dated, _____

NOTICE: THE **SIGNATURE(S)** TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME(S) AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

→ _____

_____

THE SIGNATURE(S) SHOULD BE GUARANTEED BY ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associates and Credit Unions), WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM PURSUANT TO S.E.C. RULE 17Ad-15.

DESCRIPTION OF APA CORPORATION'S EQUITY SECURITIES

APA Corporation (the "**Company**") has a single class of equity securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"): Common Stock, par value $0.625 per share ("**Common Stock**").

*The following is a summary of the rights of the holders of Common Stock. This summary should be read in conjunction with, and is qualified in its entirety by, the related provisions of the Company's Amended and Restated Certificate of Incorporation (the "**Certificate**"), which is incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on March 1, 2021; the Company's Amended and Restated Bylaws (the "**Bylaws**"), which is incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed on March 1, 2021; and applicable Delaware law, including the Delaware General Corporation Law (the "**DGCL**").*

Authorized Capital Stock

The Company's authorized capital stock consists of: (i) 860,000,000 shares of Common Stock; and (ii) 10,000,000 shares of preferred stock, no par value ("**Preferred Stock**"). As of January 29, 2021, the Company had 377,860,971 shares of Common Stock and no shares of Preferred Stock issued and outstanding. The number of shares of Common Stock issued and outstanding varies from time to time.

Common Stock

Voting

Each share of Common Stock entitles the holder thereof to one vote on all matters to be voted on by the Company's stockholders. Our Common Stock does not have cumulative voting rights. As a result, subject to the voting rights of any future holders of Preferred Stock, persons who hold more than 50% of the outstanding shares of Common Stock entitled to elect members of our board of directors (the "**Board**") can elect all of the directors who are up for election in a particular year.

Dividends

If the Board declares a dividend, holders of Common Stock will receive payments from the Company's funds that are legally available to pay dividends. This dividend right, however, is subject to any preferential dividend rights we may grant to future holders of Preferred Stock.

Liquidation Distributions

If we dissolve, the holders of Common Stock will be entitled to share ratably in all the assets that remain after we pay our liabilities and any amounts we may owe to future holders of Preferred Stock.

Other Rights and Restrictions

Holders of Common Stock do not have preemptive rights, and they have no right to convert their Common Stock into any other securities. Our Common Stock is not subject to redemption by the Company. Our Certificate and Bylaws do not restrict the ability of holders of Common Stock to transfer their shares of Common Stock. Delaware law provides that, if we make a distribution to our stockholders, other than a distribution of our capital stock, either when we are insolvent or when we would be rendered insolvent, then our stockholders would be required to pay back to us the amount of the distribution we made to them, or the portion of the distribution that causes us to become insolvent as a result of such distribution, as the case may be. There are no sinking fund provisions applicable to the Common Stock.

Fully Paid and Nonassessable

All of the outstanding shares of Common Stock are fully paid and nonassessable.

Listing

The Common Stock is listed on the Nasdaq Global Select Market under the trading symbol "APA."

Transfer Agent and Registrar

The transfer agent and registrar for our Common Stock is Equiniti Trust Company.

Anti-Takeover Provisions in the Certificate, Bylaws, and Applicable Law

Provisions of the Certificate and Bylaws may delay, defer, prevent, or otherwise discourage transactions involving an actual or potential change in control of the Company or change in its management, including transactions in which stockholders might otherwise receive a premium for their shares or that stockholders might otherwise deem to be in their best interests. Among other things, the Certificate and Bylaws provide that:

- newly-created directorships resulting from an increase in the number of directors and any vacancy on the Board may be filled solely and exclusively by a majority vote of the remaining directors then in office, even if less than a quorum (and not by stockholders);
- stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide notice in writing in a timely manner and be stockholders of record entitled to vote at such meeting on the date of the giving of such notice, and also specify requirements as to the form and content of a stockholder's notice;
- stockholders may not act by written consent in lieu of a duly called annual or special meeting of stockholders;
- no stockholder shall have cumulative voting rights for the election of directors;
- the affirmative vote of 80% of the Company's outstanding voting stock is required to (i) adopt any agreement for the merger or consolidation of the Company with or into any other corporation which is the beneficial owner of more than 5% of the Company's outstanding voting stock, and (ii) authorize any sale or lease of all or any substantial part of the Company's assets to any beneficial holder of 5% or more of the Company's outstanding voting stock;
- any tender offer made by a beneficial owner of more than 5% of the Company's outstanding voting stock in connection with any (i) plan of merger, consolidation or reorganization; (ii) sale or lease of substantially all of the Company's assets; or (iii) issuance of equity securities to the 5% stockholder must provide at least as favorable terms to each holder of Common Stock (other than the stockholder making the tender offer) as the most favorable terms granted by such stockholder pursuant to such offer; and

- the Company may not acquire any voting stock from the beneficial owner of more than 5% of the Company's outstanding voting stock, except for acquisitions pursuant to a tender offer to all holders of the Company's outstanding voting stock on the same price, terms and conditions, acquisitions in compliance with Rule 10b-18 under the Exchange Act and acquisitions at a price not exceeding the market value per share.

In addition, as a Delaware corporation, the Company is subject to the provisions of Section 203 of the DGCL, which prohibits the Company, subject to certain exceptions described below, from engaging in a "business combination" with:

- a stockholder who owns 15% or more of the Company's outstanding voting stock (otherwise known as an "interested stockholder");
- an affiliate of an interested stockholder; or
- an associate of an interested stockholder,

in each case, for three years following the date that the stockholder became an interested stockholder.

A "business combination" includes a merger or sale of more than 10% of the Company's assets. However, the above provisions of Section 203 do not apply if:

- the Board approves the transaction that made the stockholder an "interested stockholder," prior to the date of the transaction;
- after the completion of the transaction that resulted in the stockholder becoming an interested stockholder, that stockholder owned at least 85% of the Company's voting stock outstanding at the time the transaction commenced, other than statutorily excluded shares of common stock; or
- on or subsequent to the date of the transaction, the business combination is approved by the Board and authorized at a meeting of the Company's stockholders, and not by written consent, by an affirmative vote of at least two-thirds of the outstanding voting stock not owned by the interested stockholder.

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is made as of March 1, 2021, by and between Apache Corporation, a Delaware corporation ("Assignor"), and APA Corporation, a Delaware corporation ("Assignee").

RECITALS

WHEREAS, pursuant to the Agreement and Plan of Merger, dated as the date hereof (the "Merger Agreement"), by and among Assignor, Assignee, and APA Merger Sub, Inc., a Delaware corporation ("Merger Sub"), at the Effective Time, (i) Merger Sub will be merged with Assignor (the "Merger"), with Assignor surviving the Merger as a wholly-owned subsidiary of Assignee, pursuant to Section 251(g) of the General Corporation Law of the State of Delaware, and (ii) each outstanding share of common stock, par value $0.625 per share, of Assignor (the "Assignor Common Stock") will be converted into one share of common stock, par value $0.625 per share, of Assignee (the "Assignee Common Stock"), with the same designations, rights, powers, and preferences, and the qualifications, limitations, and restrictions thereof, as the shares of Assignor Common Stock immediately prior to the Merger (the "Reorganization"); and

WHEREAS, in connection with the Reorganization, Assignor has agreed to assign to Assignee, and Assignee has agreed to assume from Assignor, (i) any employee, director, and executive compensation plans pursuant to which the Surviving Corporation is obligated to, or may, issue equity securities to its directors, officers, or employees (collectively, all such plans, including any such plans listed on Exhibit A hereto, and any currently-effective amendments thereto and/or restatements thereof, the "Stock Incentive Plans"), (ii) each equity-based award agreement, program, sub-plan, notice, and/or similar agreement entered into or issued pursuant to the Stock Incentive Plans, and each outstanding award granted or assumed thereunder (collectively, the "Award Agreements"), and (iii) the other agreements and plans listed on Exhibit A hereto (the "Other Agreements and Plans" and, collectively with the Stock Incentive Plans and the Award Agreements, the "Assumed Agreements").

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the receipt and sufficiency of which is acknowledged by the parties hereto, the parties intending to be legally bound, agree as follows:

Section 1. Defined Terms. Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings assigned to them in the Merger Agreement.

Section 2. Assignment. Effective as of the Effective Time, Assignor hereby assigns to Assignee all of its rights and obligations under the Assumed Agreements.

Section 3. Assumption. Effective as of the Effective Time, Assignee hereby assumes all of the rights and obligations of Assignor under the Assumed Agreements and agrees to abide by and perform all terms, covenants, and conditions of Assignor under the Assumed Agreements. In consideration of the assumption by Assignee of all of the rights and obligations of Assignor under the Assumed Agreements, Assignor agrees to pay all expenses incurred by Assignee in

connection with the assumption of the Assumed Agreements pursuant to this Agreement. At the Effective Time, the Assumed Agreements shall each be automatically amended as necessary to provide that references to Assignor in such agreements shall be read to refer to Assignee and references to the Assignor Common Stock in such agreements shall be read to refer to the Assignee Common Stock.

Section 4. Further Assurances. Subject to the terms of this Agreement, the parties hereto shall take all reasonable and lawful action as may be necessary or appropriate to cause the intent of this Agreement to be carried out, including, without limitation, entering into amendments to the Assumed Agreements and notifying other parties thereto of such assignment and assumption.

Section 5. Successors and Assigns. This Agreement shall be binding upon Assignor and Assignee, and their respective successors and assigns. The terms and conditions of this Agreement shall survive the consummation of the transfers provided for herein.

Section 6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws.

Section 7. Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which shall constitute one and the same agreement. Facsimile copies or "PDF" or similar electronic data format copies of signatures shall constitute original signatures for all purposes of this Agreement and any enforcement hereof.

Section 8. Entire Agreement. This Agreement, including Exhibit A attached hereto, together with the Merger Agreement, constitute the entire agreement and supersede all other agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof.

Section 9. Amendments. This Agreement may not be modified or amended except by a writing executed by the parties hereto.

Section 10. Severability. The provisions of this Agreement are severable, and in the event any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

Section 11. Third Party Beneficiaries. The parties to the various Award Agreements and the parties to the Other Agreements and Plans are intended to be third party beneficiaries to this Agreement.

[*Signature Page Follows*]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

APACHE CORPORATION

By: /s/ Stephen J. Riney
Name: Stephen J. Riney
Title: Executive Vice President and Chief Financial Officer

ASSIGNEE:

APA CORPORATION

By: /s/ Stephen J. Riney
Name: Stephen J. Riney
Title: Executive Vice President and Chief Financial Officer

Exhibit A

Assumed Agreements[1]

Stock Incentive Plans (and all applicable Award Agreements thereunder):[2]

1. Apache Corporation Non-Employee Directors' Compensation Plan
2. Apache Corporation Deferred Delivery Plan
3. Apache Corporation 2007 Omnibus Equity Compensation Plan
4. Apache Corporation 2011 Omnibus Equity Compensation Plan
5. Apache Corporation 2016 Omnibus Compensation Plan

Other Agreements and Plans:

1. Apache Corporation Income Continuance Plan
2. Apache Corporation Outside Directors' Retirement Plan
3. Apache Corporation Executive Termination Policy

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1 The Stock Incentive Plans and Other Agreements and Plans set forth in this Exhibit A include any and all currently-effective amendments thereto and/or restatements thereof.

2 Each Stock Incentive Plan includes all applicable Award Agreements thereunder (any and all equity-based award agreements, programs, sub-plans, notices, and/or similar agreements entered into or issued pursuant to the Stock Incentive Plans, and each outstanding award granted or assumed thereunder).

APA CORPORATION

INCOME CONTINUANCE PLAN

(As Amended and Restated Effective as of March 1, 2021)

The Company desires to provide income continuance benefits to the following groups of its and its Affiliates' employees in case there is a change of control affecting the Company, for the reasons indicated:

(i) Those 40 years of age and older, a protected class under federal and state age discrimination laws, because it has been determined that they typically have more difficulty in finding new employment than younger persons;

(ii) Those who have been continuously employed by the Company or an Affiliate for 10 years or more, because they have demonstrated their personal commitment to the success of the Company and its Affiliates;

(iii) Those whose special skills, experience or potential justify their inclusion in order to acquire or retain their services; and

(iv) Those who are officers of the Company.

Apache adopted this Plan on January 10, 1986 in order to protect the income and other employee benefits of Employees and in order to induce Employees to remain in the employ of Apache for the ultimate benefit of Apache and its shareholders. Effective March 1, 2021, as a result of an internal reorganization resulting in Apache becoming a wholly-owned subsidiary of the Company, the Company has assumed sponsorship of this Plan from Apache and Apache has transferred sponsorship of this Plan to the Company.

The Plan is intended to create a binding legal relationship between the Company and each Employee, and a copy of the Plan together with applicable conditions will be given to each Employee. It is also intended that this Plan comply with the requirements of Code §409A, to the extent applicable, and it shall be interpreted in this light.

Section 1. Definitions.

(a) "Affiliate" shall mean any entity that is a direct or indirect majority-owned subsidiary of the Company.

(b) "Apache" means Apache Corporation, a Delaware corporation.

(c) "Benefit Period" shall mean (i) for each officer of the Company, 24 months following such officer's Termination Date, and (ii) for all other eligible Employees, a period of time following such Employee's Termination Date equal to half the number of months of his or her continuous service with the Company or an Affiliate on his or her Termination Date, up to a maximum Benefit Period of 24 months for each Employee who is not an officer. If an Employee would receive less than 24 months under the preceding sentence, the Benefit Period may be extended for such Employee to a maximum of 24 months, if the Company concludes the extension is reasonably required in order to induce an individual to accept employment or in order to retain an existing Employee.

(d) "Change of Control" shall mean (i) any individual, entity, or group (including within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) (a "Person") becomes the beneficial owner (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of either (A) the then-outstanding shares of common stock of the Company (the "Outstanding Company Common Stock") or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the "Outstanding Company Voting Securities"); provided, however, that, for purposes of this Section 1(d), the following acquisitions shall not constitute a Change of Control: (I) any acquisition of Outstanding Company Common Stock or Outstanding Company Voting Securities directly from the Company that is approved by the Incumbent Board (defined below), (II) any acquisition of Outstanding Company Common Stock or Outstanding Company Voting Securities by the Company, (III) any acquisition of Outstanding Company Common Stock or Outstanding Company Voting Securities by any employee benefit plan (or related trust) sponsored or maintained by the Company or any affiliate thereof, or (IV) any acquisition of Outstanding Company Common Stock or Outstanding Company Voting Securities in a transaction that is part of a Business Combination that complies with Sections 1(d)(iii)(A), 1(d)(iii)(B), and 1(d)(iii)(C) below; (ii) individuals who, as of the date hereof, constitute the board of directors of the Company (the "Incumbent Board") cease for any reason to constitute at least a majority of the board of directors; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual was a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the board of directors of the Company; (iii) consummation of a reorganization, merger, statutory share exchange, or consolidation or similar transaction involving the Company, a sale or other disposition of all or substantially all of the assets of the Company (including by sale, reorganization, merger, statutory share exchange, or consolidation or similar transaction involving the shares of all or substantially all of the Company's subsidiaries), or the acquisition of assets or securities of another entity by the Company or any of its subsidiaries (each, a "Business Combination"), in each case unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Stock and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination, and (B) no Person (excluding any entity resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or of any affiliate thereof or such entity resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of, respectively, the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) of the entity resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such entity, except to the extent that such ownership existed prior to the Business Combination, and (C) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement and at the time of the action of the board of directors providing for such Business Combination; or (iv) approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

Notwithstanding the foregoing, (x) in the case of any item of compensation to which the foregoing definition would otherwise apply with the effect that the tax under Code §409A would apply or be imposed on such compensation, but where such tax would not apply or be imposed if the meaning of the term "Change of Control" met the requirements of Code §409A(a)(2)(A)(v), then the term "Change of Control" herein shall mean, but only with respect to the income so affected, a transaction, circumstance, or event that constitutes a "Change of Control" (as defined above) and that also constitutes a "change in control event" within the meaning of Treasury Regulation §1.409A-3(i)(5), and (y) for purposes of the Company's Deferred Delivery Plan and any other Company or Company affiliate plan, arrangement, or agreement that incorporates the definition of "Change of Control" herein (except this Plan and the Company's 2011 Omnibus Equity Compensation Plan and 2016 Omnibus Compensation Plan and the awards under any of them), if the "Change of Control" as set forth herein as of the 2019 Restatement Date would result in any item of compensation being subject to the tax under Code §409A but where such tax would not apply or be imposed if the meaning of the term "Change of Control" as in effect immediately prior to the 2019 Restatement Date applied, then the definition of "Change of Control" as in effect immediately prior to the 2019 Restatement Date shall continue to apply to the Company's Deferred Delivery Plan and any other Company or Company affiliate plan, arrangement, or agreement that incorporates the definition of "Change of Control" herein (except this Plan and the Company's 2011 Omnibus Equity Compensation Plan and 2016 Omnibus Compensation Plan and the awards thereunder). For the avoidance of doubt, subclause (y) of the immediately preceding sentence does not apply to this Plan or the Company's 2011 Omnibus Equity Compensation Plan or 2016 Omnibus Compensation Plan or any awards under any of them.

(e) "COBRA Premium" shall mean 100% of the applicable premium, as defined in Code §4980B(f)(4).

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended, or any successor. References to a particular section of the Code shall also refer to any successor section.

(g) "Committee" shall mean the administrative committee provided for in Section 4.

(h) "Company" shall mean APA Corporation, a Delaware corporation, and any successor thereto.

(i) "Effective Date" shall mean the date on which a Change of Control takes place.

(j) "Employee" shall mean each regular exempt or non-exempt employee of the Company or of any Affiliate on the Effective Date or the Termination Date who:

(i) is 40 years of age or older; or

(ii) has been continuously employed by the Company or an Affiliate for 10 years or more; or

(iii) has been designated by the board of directors of the Company as having special skills, experience or potential which warrant extension of the Plan to them; or

(iv) is an officer of the Company.

(k) "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor. References to a particular section of ERISA shall also refer to any successor section.

(l) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, or any successor. References to a particular section of the Exchange Act shall also refer to any successor section.

(m) "Executive Officer" shall mean an officer of the Company who has filed a Form 3, 4, or 5 as required by Section 16 of the Exchange Act within the 12 months preceding a Change of Control.

(n) "Incumbent Board" shall have the meaning given such term in the definition of Change of Control.

(o) "Lump Sum Payment" shall mean an amount equal to 12 times the applicable Executive Officer's Monthly Compensation.

(p) "Monthly Compensation" shall mean one-twelfth of the total of all cash compensation, including wages, salary, and any other incentive compensation, bonuses, commissions and non-salary and non-wage cash compensation, that was paid as consideration for the Employee's services during the year immediately preceding the Termination Date, or that would have been so paid at the Employee's usual rate of cash compensation if the Employee had worked a full year; provided, that for purposes of determining the amount of the Monthly Compensation with respect to bonuses, such bonuses shall be valued at the greater of (i) the target bonus for the year in which the Termination Date occurs or (ii) the average bonus paid to the Employee for each of the three years immediately preceding the year in which the Termination Date occurs; and provided further that cash compensation shall not include or be deemed or interpreted to include any cash settled stock awards or cash valued by reference to the publicly traded stock price of the Company or any of its subsidiaries, including, for the avoidance of doubt, cash paid under the Company's long-term incentive plan. Notwithstanding the foregoing, to the extent that any element of compensation used in calculating Monthly Compensation is decreased with respect to an Employee after a Change of Control or within six months prior to a Change of Control, the amount of such element as in effect immediately prior to such decrease with respect to such Employee shall be used in such calculation.

(q) "Participant" shall mean an Employee who has become entitled to the benefits under the Plan pursuant to Section 2.

(r) "Plan" shall mean the Income Continuance Plan of the Company, as amended.

(s) "Pro Rata Bonus" shall mean an amount equal to the annual bonus the applicable Employee would have received for the year in which the Separation from Service occurred, calculated as if he or she had not experienced such Separation from Service, with such amount prorated for the portion of the year in which such Separation from Service occurred.

(t) "Retirement Plan Contribution Amount" means the amount of employer contributions that would have been made to the Company's (or its successor's) or any Affiliate's tax-qualified retirement plans that are subject to ERISA on the Employee's behalf during the Benefit Period if the Employee had not experienced a Separation from Service, calculated as if the Employee's compensation for such plan's purposes and employee contributions thereto, if applicable, remained at the level as in effect immediately prior to the Termination Date. Only Participants who are participating at the time of Separation from Service in a U.S. tax-qualified retirement plan of the Company (or its successor) or of any Affiliate that is subject to ERISA shall be eligible to receive a Retirement Plan Contribution Amount.

(u) “Separation from Service” and “Separate from Service” shall mean a separation from service within the meaning of Code §409A(a)(2)(A)(i). A Participant who has a Separation from Service “Separates from Service.” For purposes of this Plan, a Separation from Service occurs when the Company or an applicable Affiliate and the Participant both expect the Participant’s level of services to permanently drop by more than 50% from his or her average level of services during the preceding 36 months (or, if less, the duration of his or her employment with the Company and its Affiliates). Notwithstanding anything else in this Plan to the contrary, a Separation from Service shall not be deemed to occur solely because an Employee transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

(v) “Specified Employee” shall have the same meaning as in Code §409A(a)(2)(B)(i) and is determined using the default rules contained in the regulations and other guidance of general applicability issued pursuant to Code §409A.

(w) “Termination Date” shall mean:

(i) If an Employee’s Separation from Service is involuntary, his or her Termination Date is the date on which an authorized written or oral statement is conveyed to the Employee indicating that the Employee’s employment is terminated; or

(ii) If an Employee’s Separation from Service is voluntary, his or her Termination Date is the date on which the Employee delivers a written notice to the Company or its successor or an applicable Affiliate advising of termination of employment.

(x) “2019 Restatement Date” shall mean July 29, 2019.

Section 2. Eligibility for Benefits.

The benefits described in this Plan shall come into effect only if the Employee is “terminated” on or within 24 months after the Change of Control. For this purpose, an Employee is considered “terminated” in the following circumstances.

(a) Involuntary Termination. Each of the following three conditions is satisfied.

(i) The Company or its successor or an applicable Affiliate terminates an Employee for any reason on or after the Change of Control.

(ii) The termination constitutes a Separation from Service.

(iii) The termination does not result from an act of the Employee that (A) constitutes common-law fraud, a felony, or a gross malfeasance of duty, and (B) is materially detrimental to the best interests of the Company or its successor.

(b) Voluntary Termination with Cause. Either the facts and circumstances indicate that each of the following five conditions is satisfied or that the Participant’s termination is properly characterized as involuntary pursuant to Treasury Regulation §1.409A-1(n)(2), other IRS guidance of general applicability, or an IRS private letter ruling applicable to the Participant.

(i) The Employee Separates from Service of his or her own volition.

(ii) The Employee's Separation from Service occurs during the 24-month period beginning on the date of the Change of Control.

(iii) One or more of the following conditions occurs without the Employee's consent on or after the Change of Control:

(A) There is a material diminution in the Employee's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(B) There is a material diminution in the Employee's authority, duties, or responsibilities.

(C) There is a material diminution in the authority, duties, or responsibilities of the Employee's supervisor, such as a requirement that the Employee (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(D) There is a material diminution in the budget over which the Employee retains authority.

(E) There is a material change in the geographic location at which the Employee must perform his or her services, including, for example, the assignment of the Employee to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

(iv) The Employee must notify the Company of the existence of one or more adverse conditions specified in paragraph (iii) within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company or its successor, attention: Vice President, Human Resources. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's or its applicable Affiliate's Vice President, Human Resources or his or her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Employee by certified mail.

(v) The Company does not or does not cause an applicable Affiliate to remedy the adverse condition within 30 days of being notified of the adverse condition.

Section 3. Benefits.

(a) Monthly Compensation; Lump Sum Payment; Pro Rata Bonus; Retirement Plan Contribution Amount.

(i) Timing of Payments, General. Except as provided for Specified Employees in paragraph (ii) or as reduced in paragraph (iii), each month the Participant will be paid his or her Monthly Compensation. The first payment of the Monthly Compensation will be made on the first 15th of the month that occurs after the Participant's Separation from Service or as soon thereafter as is administratively practicable, and subsequent payments thereof will be made on the 15th of each succeeding month. The number of payments of Monthly Compensation the Participant receives is equal to the number of months in his or her Benefit Period. In addition, except as provided for Specified Employees in paragraph (ii) or as reduced in paragraph (iii), the Participant will also be paid his or her Pro Rata Bonus, Retirement Plan Contribution Amount, and, if and only if the Participant is an Executive Officer, the Lump Sum Payment. The Pro Rata Bonus, the Retirement Plan Contribution Amount, and, if applicable, the Lump Sum Payment shall be paid in a single lump sum in cash within 60 days after his or her Separation from Service.

(ii) Exceptions for Specified Employees. This paragraph applies to the payments to a Participant who is a Specified Employee. The Specified Employee shall be paid as described in subsection (a)(i) with the following exceptions for his or her first six payments of Monthly Compensation and his or her Pro Rata Bonus, Retirement Plan Contribution Amount, and, if applicable, the Lump Sum Payment.

(A) No Deferral of Compensation. The payments under this Plan generally cease to be subject to a substantial risk of forfeiture when the Participant Separates from Service. If the payments cease to be subject to a substantial risk of forfeiture in one year and the Participant Separates from Service on or before October 15 of that year, the first six payments of Monthly Compensation and the Pro Rata Bonus, the Retirement Plan Contribution Amount, and, if applicable, the Lump Sum Payment will be made at the times specified in subsection (a)(i). If the payments cease to be subject to a substantial risk of forfeiture in one year and the Participant Separates from Service after October 15 of that year, regular payments will be made at the times specified in subsection (a)(i) through February 15 in the year after the Separation from Service and the remainder of the first six payments of Monthly Compensation (and, if not already paid, the Pro Rata Bonus, the Retirement Plan Contribution Amount, and, if applicable, the Lump Sum Payment) will be paid on March 15 (or if March 15 is not a business day, the payment shall be made on the immediately preceding business day).

For example, if the Participant terminates on December 31, he or she will receive the regular payments of Monthly Compensation on January 15 and February 15 (along with the Pro Rata Bonus, the Retirement Plan Contribution Amount, and, if applicable, the Lump Sum Payment, within 60 days after December 31) and will receive four months' worth of Monthly Compensation payments on March 15. His or her next payment of Monthly Compensation will be on July 15.

For purposes of Treasury Regulation §§ 1.409A-1(b)(4)(i)(F) and 1.409A-2(b)(2), each payment from this Plan is considered a separate payment.

(B) Limited Payments during First Six Months. This subparagraph applies only if subparagraph (A) does not apply to the Specified Employee, such as when his or her benefits cease to be subject to a substantial risk of forfeiture in a year earlier than the year of his or her Separation from Service. Each month, the sum of (1) the monthly payment under this paragraph (ii) (which shall include the amount of the Pro Rata Bonus, the Retirement Plan Contribution Amount, and, if applicable, the Lump Sum Payment for the month in which each such amount is paid), (2) the amount of any gross-up under paragraphs (b)(iii) or (b)(iv), and (3) any payment from any other separation pay plan (other than those described in Treasury Regulation §1.409A-1(b)(9)(ii), (iv), or (v)) is limited to the lesser of one-third of the Participant's annual compensation for the year preceding the year in which he or she Separated from Service or one-third of the annual limit in effect under Code §401(a)(17) for the calendar year containing the Separation from Service. For this purpose, "annual compensation" means the Participant's annualized compensation based upon the annual rate of pay for services provided to the Company and its Affiliates for the year preceding the year in which the Participant Separated from Service, adjusted for any increase during that year that was expected to continue indefinitely had the Participant not Separated from Service. If any monthly payments are limited by the foregoing, the reductions in each payment shall be aggregated and that exact sum shall be paid to the Specified Employee six months after his or her Separation from Service.

(iii) Reduction in Payments. The payments described in this subsection shall be reduced by the amount of any severance pay required by foreign law.

(b) Continued Health Coverage.

(i) General. This Section 3(b) shall apply only to Participants who are eligible to participate at the time of Separation from Service in the Company's or an Affiliate's U.S. "welfare plans" (as defined in ERISA §3(1)) that are subject to ERISA and shall not apply to any other Participants. The Participant shall continue to be covered by the Company's or its applicable Affiliate's medical plan, dental plan, vision plan, and employee assistance program after Separating from Service for the number of months in his or her Benefit Period. The Participant and his or her family members may also be able to continue their coverage even after the Benefit Period ends, pursuant to the continuation coverage rules under those plans. The benefits offered during the Benefit Period shall contain at least one alternative that is at least as valuable as the benefits offered immediately before the Change of Control. In addition, the Participant shall have the same coverage options as are available to current employees of the Company or its applicable Affiliates. The Participant may change his or her coverage from one alternative to another, and may add or drop coverage for his or her dependents or spouse, subject to the same rules as a current employee of the Company or its applicable Affiliates.

(ii) Premiums. The Company or an applicable Affiliate may not charge a Participant for coverage under the employee assistance program. The Company or an applicable Affiliate may charge a premium for coverage under the medical, dental, and vision plans, but the maximum premium for the alternative(s) that are at least as valuable as the benefits offered immediately before the Change of Control shall not exceed what was charged under the schedule of premiums that was in effect immediately before the Change of Control. For example, if the premium was $64 per month for employee-only coverage and $200 per month for family coverage on the date of the Change of Control, and a male Participant marries a woman with children two months into their Benefit Period, their premium will be $200 per month for the remainder of their Benefit Period for coverage that is at least as valuable as the family coverage benefits immediately before the Change of Control.

(iii) Cafeteria Plan. Except as provided in paragraph (iv), the Company shall ensure that it or an Affiliate maintains a cafeteria plan governed by Code §125 that allows each Participant in this Plan otherwise eligible to participate in such plan to reduce their pay described in subsection (a) to pay their share of the premiums for medical, dental, and vision coverage generally on a pre-tax basis. If the cafeteria plan fails one of its nondiscrimination tests, a highly-paid Participant's supposedly pre-tax deductions from his or her pay will generally be included in his or her taxable income. In this case, the Company or its applicable Affiliate shall pay the Participant a gross-up so that the highly-paid Participant's after-tax income equals what it would have if his or her deduction from his or her pay were made on a pre-tax basis.

(iv) After-Tax Premiums. Each year, beginning with the year containing the Change of Control, the Committee shall determine whether each self-funded health plan subject to ERISA is discriminatory for purposes of Code §105(h)(5). If such a self-funded plan is discriminatory, each Participant who was a highly-compensated individual (within the meaning of Code §105(h)(5)) and eligible to participate in such plan shall pay the COBRA Premium for coverage with after-tax deductions from his or her pay described in subsection (a), and for purposes of Code §105 a separate self-funded health plan shall be considered to have been established for such highly-compensated individuals for that year. If sufficient deductions were not properly withheld, the Participant is responsible for reimbursing the Company or its applicable Affiliate for the underwithholding. The Company shall or shall cause an applicable Affiliate to pay

a gross-up to each Participant who was a highly-compensated individual (within the meaning of Code §105(h)(5)) so that his or her after-tax income equals what it would have if he or she only had to pay the amount described in paragraph (ii) for coverage and this amount was withheld on a pre-tax basis from his or her pay. In addition, the Committee may project during a year whether a self-funded plan subject to ERISA will be discriminatory for purposes of Code §105(h)(5), and pay a gross-up to each Participant who is expected to be a highly-compensated individual (within the meaning of Code §105(h)(5)) for that year so that his or her after-tax income equals what it would have if he or she only had to pay the amount described in paragraph (ii) for coverage and this amount were withheld on a pre-tax basis from his or her pay. To the extent that any insured plan subject to ERISA is determined to be discriminatory pursuant to the Code or similar law (whether as a result of new guidance promulgated pursuant to the Patient Protection and Affordable Care Act of 2010, as amended, or otherwise), the foregoing in this paragraph (iv) shall apply with respect to such insured plan to the extent reasonably practicable.

(v) Gross-Up. If a Participant receives a gross-up under paragraph (iii) or (iv), the gross-up shall be paid as quickly as possible and no later than the end of the calendar year following the calendar year in which the Participant's right to the gross-up arose. However, if the gross-up is due to a tax audit or litigation addressing the existence or amount of a tax liability, the gross-up shall be paid as soon as administratively convenient after the litigation or audit is completed, and no later than the end of the calendar year following the calendar year in which the audit is completed or there is a final and non-appealable settlement or other resolution of the litigation.

(c) Continued Life Insurance. This Section 3(c) shall apply only to Participants who are eligible to participate in the Company's or an Affiliate's U.S. "welfare plans" (as defined in ERISA §3(1)) that are subject to ERISA and shall not apply to any other Participants. The Company shall or shall cause an applicable Affiliate to continue to provide term-life insurance for each Participant until (i) the Participant stops paying the premiums or (ii) the Benefit Period expires. The amount of the available coverage shall be at least as much as was provided to the Participant on the date of the Change of Control. The Participant-paid portion of the premiums shall be no larger than the premiums charged to current employees of the Company or its applicable Affiliates who perform the same types of tasks, at the same level, as the Participant performed immediately before the Change of Control.

(d) Legal Expenses.

(i) Expenses That Are Not Subject to Code §409A. The Plan shall reimburse the Participant (or, if the Participant has died, his or her beneficiary, spouse, and dependents – collectively, the "claimant" in this subsection) for all reasonable expenses, including attorneys' fees, that the claimant incurs before the end of the calendar year containing the second anniversary of the Participant's Separation from Service and that are incurred in any dispute, claim, mediation, arbitration, or preceding and that are incurred to seek to enforce the claimant's rights against the Company or its successor under this Plan, regardless of whether the action is successful and regardless of who commenced such dispute, claim, mediation, arbitration, or proceeding. The Plan shall reimburse the claimant as soon as practicable following claimant's submission of third-party invoices for such expenses and no later than the end of the calendar year containing the third anniversary of the Participant's Separation from Service.

(ii) Expenses That Are Subject to Code §409A. The Plan shall reimburse the claimant for all reasonable expenses, including attorneys' fees, that he or she incurs after the calendar year containing the second anniversary of the Participant's Separation from Service and before the third anniversary of the Participant's death and that are incurred in enforcing the

claimant's rights against the Company or its successor under this Plan, regardless of the whether the action is successful. All reimbursements and in-kind benefits provided under this Plan that are subject to Code §409A shall be made in accordance with the requirements of Code §409A, including, without limitation, where applicable, the requirement that (A) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year; (B) the reimbursement of eligible fees and expenses shall be made no later than the last day of the calendar year following the year in which the applicable fees and expenses were incurred; and (C) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

(e) Noncompliance with Code §409A. To the extent that the Company or any Affiliate takes any action that causes a violation of Code §409A or fails to take reasonable actions required to comply with Code §409A, the Company or an applicable Affiliate shall pay an additional amount (the "gross-up") to the individual(s) who are subject to the penalty tax under Code §409A(a)(1) that is sufficient to put him or her in the same after-tax position he or she would have been in had there been no violation of Code §409A. The Company or an applicable Affiliate shall not pay a gross-up if the cause of the violation of Code §409A is because the recipient failed to take reasonable actions (such as failing to timely provide the information required for tax withholding or failing to timely provide other information reasonably requested by the Committee - with the result that the delay in payment violates Code §409A). Any gross-up will be made as soon as administratively convenient after the Committee determines the gross-up is owed, and no later than the end of the calendar year immediately following the calendar year in which the additional taxes are remitted. However, if the gross-up is due to a tax audit or litigation addressing the existence or amount of a tax liability, the gross-up will be paid as soon as administratively convenient after the litigation or audit is completed, and no later than the end of the calendar year following the calendar year in which the audit is completed or there is a final and non-appealable settlement or other resolution of the litigation.

(f) Death of Participant.

(i) Payments to Beneficiary. If the Participant dies during the Benefit Period, his or her Beneficiary shall be paid all remaining payments under subsection (a), (d), and (e), on the same schedule as they would have been paid to the Participant had he or she lived. See subsection (g) for possible delays. The amount paid to the Beneficiary will be reduced by the cost of health coverage of the surviving spouse and dependents. If the Beneficiary dies before receiving all such payments, any remaining payments shall be paid to the Beneficiary's estate.

(ii) Health Coverage. If the Participant dies during the Benefit Period, his or her spouse and dependents shall continue to receive the benefits identified in subsection (b), at the price specified in subsection (b), for the remaining duration of the Benefit Period. A surviving spouse or dependent who is not covered (but was eligible to be covered) by such plans when the Participant dies may elect to be covered by such plans whenever the Participant could have elected coverage for them had he or she not died. Any gross-up under subsection (b)(iii) or (b)(iv) shall be made to the surviving spouse, if any, and otherwise to the dependents. (See Section 9 for payments to a minor.)

(iii) Beneficiary Designation. Each Participant shall designate one or more persons, trusts, or other entities as his or her Beneficiary to receive any amounts identified in paragraph (i). In the absence of an effective beneficiary designation as to part or all of a Participant's interest in the Plan, such amount will be distributed to the Participant's surviving spouse, if any, otherwise to the personal representative of the Participant's estate.

(iv) Special Rules for Spouses. A beneficiary designation may be changed by the Participant at any time and without the consent of any previously designated Beneficiary. However, if the Participant is married, his or her spouse will be his or her Beneficiary unless such spouse has consented to the designation of a different Beneficiary. To be effective, the spouse's consent must be in writing, witnessed by a notary public, and filed with the Committee. If the Participant has designated his or her spouse as a primary or contingent Beneficiary, and the Participant and spouse later divorce (or their marriage is annulled), then the former spouse will be treated as having pre-deceased the Participant for purposes of interpreting a beneficiary designation that was completed prior to the divorce or annulment; this provision will apply only if the Committee is informed of the divorce or annulment before payment to the former spouse is authorized.

(v) Disclaiming. Any individual or legal entity who is a Beneficiary may disclaim all or any portion of his or her interest in the Plan, provided that the disclaimer satisfies the requirements of Code §2518(b) and other applicable law. The legal guardian of a minor or legally incompetent person may disclaim for such person. The personal representative (or the individual or legal entity acting in the capacity of the personal representative according to applicable law) may disclaim on behalf of a Beneficiary who has died. The amount disclaimed will be distributed as if the disclaimant had predeceased the individual whose death caused the disclaimant to become a Beneficiary.

(g) Administrative Delays in Payments. The Committee may delay any payment from this Plan for as short a period as is administratively necessary. For example, a delay may be imposed upon all payments from the Plan when there is a change of recordkeeper or trustee, and a delay may be imposed on payments to any recipient until they have provided the information needed for tax withholding and tax reporting, as well as any other information reasonably requested by the Committee. However, no delay may last long enough for the Plan to be considered a "pension plan" within the meaning of ERISA §3(2).

(h) Technical Note. If a Participant or Beneficiary has a taxable year different from the calendar year, the deadlines under Article II shall be adjusted to the latest date, as specified in IRS guidance of general applicability, that would permit compliance with Code §409A.

(i) Cash Payment and Withholding. All payments from the Plan will be made in cash. The Plan will withhold any taxes or other amounts that it is required to withhold pursuant to any applicable law. The Plan will also withhold any amounts (such as medical premiums) that the recipient authorizes the Plan, the Company, or an applicable Affiliate to withhold.

(j) Parachute Payments. Notwithstanding anything to the contrary, in the event that any payment or benefit received or to be received by a Participant (including, without limitation, any payment or benefit received in connection with a Change of Control or the termination of Participant's employment after a Change of Control, whether pursuant to the terms of this Plan or any other plan, program, arrangement, or agreement) (all such payments and benefits received or to be received, together, the "Total Receipts") would be subject (in whole or part), to any excise tax imposed under Code §4999 (the "Excise Tax"), then, after taking into account any reduction in the Total Receipts provided by reason of Code §280G in such other plan, program, arrangement, or agreement, the Company or an applicable Affiliate will reduce the payments and benefits comprising Total Receipts to the extent necessary, but only to the extent necessary, so that no portion of the Total Receipts is subject to the Excise Tax (but in no event to less than zero); provided, however, that the payments and benefits comprising Total Receipts will be reduced only if (a) the net amount of such Total Receipts, as so reduced (and after subtracting the net amount of federal, state, municipal, and local income and employment taxes on such

reduced Total Receipts and after taking into account the phase out of itemized deductions and personal exemptions attributable to such reduced Total Receipts), is greater than or equal to (b) the net amount of such Total Receipts without such reduction (but after subtracting the net amount of federal, state, municipal, and local income and employment taxes on such Total Receipts and the amount of Excise Tax to which Executive would be subject in respect of such unreduced Total Receipts and after taking into account the phase out of itemized deductions and personal exemptions attributable to such unreduced Total Receipts). In the case of a reduction in the payments and benefits comprising Total Receipts, the payments and benefits comprising Total Receipts will be reduced in the following order: (1) payments that are payable in cash that are valued at full value under Treasury Regulation §1.280G-1, Q&A 24(a) will be reduced (if necessary, to zero), with amounts that are payable last reduced first; (2) payments and benefits due in respect of any equity valued at full value under Treasury Regulation Section 1.280G-1, Q&A 24(a), with the highest values reduced first (as such values are determined under Treasury Regulation §1.280G-1, Q&A 24), will next be reduced; (3) payments that are payable in cash that are valued at less than full value under Treasury Regulation §1.280G-1, Q&A 24, with amounts that are payable last reduced first, will next be reduced; (4) payments and benefits due in respect of any equity valued at less than full value under Treasury Regulation §1.280G-1, Q&A 24, with the highest values reduced first (as such values are determined under Treasury Regulation §1.280G-1, Q&A 24), will next be reduced; and (5) all other non-cash benefits not otherwise described in clause (2) or (4) will be next reduced pro-rata. Any reductions made pursuant to each of clauses (1) through (4) above will be made in the following manner: first, a pro-rata reduction of cash payment and payments and benefits due in respect of any equity not subject to Code §409A, and second, a pro-rata reduction of cash payments and payments and benefits due in respect of any equity subject to Code §409A as deferred compensation.

Section 4. Administration.

(a) Composition of the Committee.

(i) Current. As of the date hereof, the Committee is comprised of the members of the Retirement Plan Advisory Committee.

(ii) Before a Change of Control. Before a Change of Control, the board of directors of the Company shall appoint an administrative Committee consisting of no fewer than three individuals who may be, but need not be, Participants, officers, directors, or employees of the Company or its Affiliates. The Company's board of directors may remove Committee members at will. In the absence of any Committee members, the Company shall become the sole Committee member.

(iii) After a Change of Control. This paragraph applies on and after the date of a Change of Control. The only individuals who are able to serve on the Committee after the date of the Change of Control are those who are not then employed by the Company, its successor, or any related legal entities. No Committee members may be added on or after the day of the Change of Control, except that, if the Committee is comprised solely of individuals, (A) the Committee may appoint a legal entity as a Committee member, who may generally resign by giving 60 days' notice to the other Committee members, and (B) if the number of Committee members drops below three, the remaining member(s) may not resign until having appointed a legal entity or another individual as a Committee member. If all Committee members leave the Committee (if, for example, all Committee members die before the last one appoints a new Committee member or if the sole Committee member is a legal entity that goes out of business), the Committee shall automatically consist of the three Participants with the largest monthly payments from the Plan who are not then employed by the Company, its successor, or any related legal entities.

(iv) Plan Administrator. The Committee is the Plan's "administrator" within the meaning of ERISA §3(16)(A). The sole named fiduciaries of the Plan are the Committee and the trustees of any trusts from which Plan benefits may be paid.

(b) Committee Duties. The Committee shall administer the Plan and shall have all discretion and powers necessary for that purpose, including, but not by way of limitation, full discretion and power to interpret the Plan, to determine the eligibility, status, and rights of all persons under the Plan and, in general, to decide any dispute and all questions arising in connection with the Plan. The Committee shall direct the Company, the trustee of any rabbi trust established to pay Plan benefits, or both, as the case may be, concerning payments in accordance with the provisions of the Plan. The Committee shall maintain all Plan records except records of any trust. The Committee shall publish, file, or disclose — or cause to be published, filed, or disclosed — all reports and disclosures required by federal or state laws. The Committee may authorize one or more of its members or agents to sign instructions, notices, and determinations on its behalf.

(c) Organization of Committee. The Committee shall adopt such rules as it deems desirable for the conduct of its affairs and for the administration of the Plan. It may appoint agents (who need not be members of the Committee) to whom it may delegate such powers as it deems appropriate, except that any dispute shall be determined by the Committee. The Committee may make its determinations with or without meetings. It may authorize one or more of its members or agents to sign instructions, notices, and determinations on its behalf. If a Committee decision or action affects a relatively small percentage of Plan Participants including a Committee member, such Committee member will not participate in the Committee decision or action. The action of a majority of the disinterested Committee members constitutes the action of the Committee.

(d) Indemnification. The Committee and all of the agents and representatives of the Committee shall be indemnified and saved harmless by the Company against any claims, and the expenses of defending against such claims, resulting from any action or conduct relating to the administration of the Plan, except claims judicially determined to be attributable to gross negligence or willful misconduct.

(e) Agent for Process. The Company's Vice President, General Counsel, and Secretary shall be the agents of the Plan for service of all process.

(f) Determination of Committee Final. The decisions made by the Committee are final and conclusive on all persons.

(g) No Bonding. Neither the Committee nor any committee member is required to give any bond or other security in any jurisdiction in connection with the administration of the Plan, unless the Company determines otherwise before a Change of Control or any applicable federal or state law so requires.

Section 5. Terms of Plan; Termination.

This Plan is terminable at any time by the majority vote of the Incumbent Board upon six months' prior written notice delivered to all Employees, provided that the Company or its successor shall be prohibited from terminating the plan, or delivering notice of termination of the Plan, after or within six months prior to a Change of Control.

Section 6. Amendment.

This Plan can be amended at any time by the Company on the following conditions:

(a) No amendment shall be adopted by the Company or its successor subsequent to the Effective Date, except to alleviate any material negative tax consequences to one or more actual or expected recipients of Plan benefits.

(b) Immediately after adopting any amendment, the Company shall provide to Employees a written statement of this Plan, as amended, and no amendments shall be effective as to any Employee, until the Employee has received the statement. An Employee will be deemed to have received the written statement of the Plan if it is delivered in person or after 48 hours of dispatch by mail or other suitable means of delivery to the last known address of the Employee.

Section 7. Other Plans and Contracts.

It is the intention of the Company that the benefits provided for in this Plan are in addition to, and not in lieu of any other rights, privileges or benefits to which the Employee may now or hereafter be entitled under any contract, arrangement, plan, or other policy applicable to any Employee with the Company, any Affiliate, or any other employer, except the benefits suspended under the Company's Executive Termination Policy during the Benefit Period under this Plan.

Section 8. Claims Procedure.

(a) General. Each claim for benefits will be processed in accordance with the procedures established by the Committee. The procedures will comply with the guidelines specified in this section. Claims for reimbursement under the medical, dental, and vision plans, the employee assistance program, and claims for life insurance shall be determined under the procedures specified in those plans; however, this Plan's procedures shall determine eligibility for continued participation in such plans. The Committee may delegate its duties under this section.

(b) Representatives. A claimant may appoint a representative to act on his or her behalf. The Plan will only recognize a representative if the Plan has received a written authorization signed by the claimant and on a form prescribed by the Committee, with the following exceptions. The Plan will recognize a claimant's legal representative, once the Plan is provided with documentation of such representation. If the claimant is a minor child, the Plan will recognize the claimant's parent or guardian as the claimant's representative. Once an authorized representative is appointed, the Plan will direct all information and notification regarding the claim to the authorized representative and the claimant will be copied on all notifications regarding decisions, unless the claimant provides specific written direction otherwise.

(c) Extension of Deadlines. The claimant may agree to an extension of any deadline that is mentioned in this section that applies to the Plan. The Committee or the relevant decision-maker may agree to an extension of any deadline that is mentioned in this section that applies to the claimant.

(d) Fees. The Plan may not charge any fees to a claimant for utilizing the claims process described in this section.

(e) Filing a Claim. A claim is made when the claimant files a claim in accordance with the procedures specified by the Committee. Any communication regarding benefits that is not made in accordance with the Plan's procedures will not be treated as a claim.

(f) Initial Claims Decision. The Plan will decide a claim within a reasonable time up to 90 days after receiving the claim. The Plan will have a 90-day extension, but only if the Plan is unable to decide within 90 days for reasons beyond its control, the Plan notifies the claimant of the special circumstances requiring the need for the extension by the 90th day after receiving the claim, and the Plan notifies the claimant of the date by which the Plan expects to make a decision.

(g) Notification of Initial Decision. The Plan will provide the claimant with written notification of the Plan's full or partial denial of a claim, reduction of a previously approved benefit, or termination of a benefit. The notification will include a statement of the reason(s) for the decision; references to the plan provision(s) on which the decision was based; a description of any additional material or information necessary to perfect the claim and why such information is needed; a description of the procedures and deadlines for appeal; a description of the right to obtain information about the appeal procedures; and a statement of the claimant's right to sue.

(h) Appeal. The claimant may appeal any adverse or partially adverse decision. To appeal, the claimant must follow the procedures specified by the Committee. The appeal must be filed within 60 days of the date the claimant received notice of the initial decision. If the appeal is not timely and properly filed, the initial decision will be the final decision of the Plan. The claimant may submit documents, written comments, and other information in support of the appeal. The claimant will be given reasonable access at no charge to, and copies of, all documents, records, and other relevant information.

(i) Appellate Decision. The Plan will decide the appeal of a claim within a reasonable time of no more than 60 days from the date the Plan receives the claimant's appeal. The 60-day deadline will be extended by an additional 60 days, but only if the Committee determines that special circumstances require an extension, the Plan notifies the claimant of the special circumstances requiring the need for the extension by the 60th day after receiving the appeal, and the Plan notifies the claimant of the date by which the Plan expects to make a decision. If an appeal is missing any information from the claimant that is needed to decide the appeal, the Plan will notify the claimant of the missing information and grant the claimant a reasonable period to provide the missing information. If the missing information is not timely provided, the Plan will deny the claim. If the missing information is timely provided, the 60-day deadline (or 120-day deadline with the extension) for the Plan to make its decision will be increased by the length of time between the date the Plan requested the missing information and the date the Plan received it.

(j) Notification of Decision. The Plan will provide the claimant with written notification of the Plan's appellate decision (positive or adverse). The notification of any adverse or partially adverse decision must include a statement of the reason(s) for the decision; reference to the plan provision(s) on which the decision was based; a description of the procedures and deadlines for a second appeal, if any; a description of the right to obtain information about the second-appeal procedures; a statement of the claimant's right to sue; and a statement that the claimant is entitled to receive, free of charge and upon request, reasonable access to and copies of all documents, records, and other information relevant to the claim.

(k) Arbitration. The claimant and the Plan may voluntarily enter into a binding arbitration to resolve any claim, in which case (i) the Plan and/or Company pays all the arbitration fees and costs, (ii) the Plan agrees that any statute of limitations or other defense based on timeliness is tolled during the time between the date the claimant completes and submits the forms that begin the arbitration process and the date of the arbitrator's decision (which will only apply if the claimant files suit after receiving an adverse decision from the arbitrator), and (iii) the Plan provides the claimant, upon request, sufficient information relating to the arbitration to enable

the claimant to make an informed judgment about whether to submit the dispute to arbitration, including a statement that the claimant's decision to choose or not choose arbitration will have no effect on the claimant's rights to any other benefits under the Plan, and information about the applicable rules, the claimant's right to representation, the process for selecting the arbitrator, and the circumstances, if any, that may affect the arbitrator's impartiality.

Section 9. Distributions Due Infants or Incompetents.

If any person entitled to a distribution under the Plan is an infant, or if the Committee determines that any such person is incompetent by reason of physical or mental disability, whether or not legally adjudicated as incompetent, the Committee has the power to cause the distributions becoming due to such person to be made to another for his or her benefit, without responsibility of the Committee to see to the application of such distributions. Distributions made pursuant to such power will operate as a complete discharge of the Company, the trustee, the Plan, and the Committee.

Section 10. Use and Form of Words.

When any words are used herein in the masculine gender, they are to be construed as though they were also used in the feminine gender in all cases where they would so apply, and vice versa. Whenever any words are used herein in the singular form, they are to be construed as though they were also used in the plural form in all cases where they would so apply, and vice versa.

Section 11. Inalienability of Benefits.

Except for disclaimers under Section 3(f)(v), no Participant or Beneficiary has the right to assign, alienate, pledge, transfer, hypothecate, encumber, or anticipate his or her interest in any benefits under the Plan, nor are the benefits subject to garnishment by any creditor, nor may the benefits under the Plan be levied upon or attached. The preceding sentence does not apply to the enforcement of a federal tax levy made pursuant to Code §6331, the collection by the United States on a judgment resulting from an unpaid tax assessment, or any debt or obligation that is permitted to be collected from the Plan under federal law (such as the Federal Debt Collection Procedures Act of 1977).

Section 12. Applicable Law.

This Plan shall be interpreted to have been made in the State of Texas and the laws of the State of Texas shall control.

[*Signature Page Follows*]

Dated March 1, 2021

APA CORPORATION

ATTEST:

/s/ Rajesh Sharma
Rajesh Sharma
Corporate Secretary

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Signature Page to Income Continuance Plan (Amended and Restated effective March 1, 2021)

Exhibit 10.3

APA Corporation
Executive Termination Policy

This Policy, which provides for the payment of certain benefits upon termination of employment, applies to:

All executive officers in the event of a termination of employment without cause.

Pursuant to the Policy, in the event of a termination of employment without cause, executive officers are eligible to receive the following benefits;

- base salary benefit:
    - two times base salary for the chief executive officer;
    - 1.75 times base salary for executive vice presidents;
    - 1.5 times base salary for senior vice presidents and regional vice presidents;
    - one times base salary for vice presidents;
- prorated target bonus;
- twelve months COBRA subsidy at active rates;
- three years' service credit toward retiree medical;
- prorated vesting for restricted stock units and stock options and extension of exercise period to full life of original stock option award; and
- prorated vesting based on time in performance period for performance shares provided the executive has participated in the performance program for at least one year of the performance period (calculated at the end of the performance period and, if a payout is warranted, paid in cash according to the performance program's vesting schedule).

A condition precedent to an executive officer receiving the benefits under this Executive Termination Policy will be for such executive to provide a full and final release to the Company of all claims in a form of release approved by the Company's general counsel or chief executive officer.

Upon termination of employment after a Change of Control, all executive officers will receive no additional benefits pursuant to this Policy during the 24 months following a Change of Control when they are entitled to termination benefits under the Income Continuance Plan. Benefits for such officers after termination of employment upon a Change of Control will continue to be administered under the Company's Income Continuance Plan and existing equity grant agreements with the Company. After expiration of the period that termination benefits are provided by the Income Continuance Plan, this Policy shall again be operative.

First Amendment to the
APA CORPORATION
2007 Omnibus Equity Compensation Plan

WHEREAS, APA Corporation, a Delaware corporation (the "Company"), sponsors and maintains the 2007 Omnibus Equity Compensation Plan, as amended and restated effective May 4, 2011, and as amended prior to the date hereof, including as amended by that certain Assignment and Assumption Agreement dated as of March 1, 2021, whereby Apache Corporation assigned the plan to the Company and the Company assumed the plan from Apache Corporation (the "Plan"); and

WHEREAS, the Company, pursuant to Section 16 of the Plan, has the right to amend the Plan, subject to such amendments being approved by the Board of Directors or the Management Development and Compensation Committee of the Company; and

WHEREAS, the Company desires to amend the definitions of "Involuntary Termination" and "Voluntary Termination with Cause" to reflect that following the holding company reorganization of the Company with Apache Corporation, officers of Apache Corporation became officers of the Company but remain employees of Apache Corporation.

NOW, THEREFORE, the Plan is amended as follows:

1. Section 2.1(cc) is hereby amended in its entirety as follows:

(cc) "Involuntary Termination" means the termination of employment of the Participant by the Company or its successor or an applicable Affiliate for any reason on or after a Change of Control; provided that the termination does not result from an act of the Participant that (i) constitutes common law fraud, a felony, or gross malfeasance of duty and (ii) is materially detrimental to the best interests of the Company or its successor; provided that, notwithstanding anything else in this Plan to the contrary, an Involuntary Termination shall not be deemed to occur solely because a Participant transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

2. Section 2.1(dd) is hereby amended in its entirety as follows:

(dd) "Voluntary Termination with Cause" occurs upon a Participant's separation from service of his or her own volition and one or more of the following conditions occurs without the Participant's consent on or after a Change of Control:

(i) There is a material diminution in the Participant's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(ii) There is a material diminution in the Participant's authority, duties, or responsibilities.

(iii) There is a material diminution in the authority, duties, or responsibilities of the Participant's supervisor, such as a requirement that the Participant (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(iv) There is a material diminution in the budget over which the Participant retains authority.

(v) There is a material change in the geographic location at which the Participant must perform his or her service, including, for example the assignment of the Participant to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

The Participant must notify the Company of the existence of one or more adverse conditions specified in clauses (i) through (v) above within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company's Vice President, Human Resources or his/her delegate. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's Vice President, Human Resources or his/her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Participant by certified mail. Notwithstanding the foregoing provisions of this definition, if the Company remedies the adverse condition within 30 days of being notified of the adverse condition, no Voluntary Termination with Cause shall occur.

3. With respect to Awards intended to constitute "qualified performance-based compensation" and granted on or before to November 2, 2017, to any Covered Employee (as modified by the Tax Cuts and Jobs Act of 2017), the foregoing amendments shall not apply with respect to any such Awards if such amendments constitute a material modification of the Plan or the applicable Award agreement as determined under Section 162(m) of the Code, IRS Notice 2018-68, Treasury Regulation § 1.162-33, and other applicable guidance that would otherwise result in some or all of such Awards not being deductible by the Company or its affiliates for federal tax purposes.

[*Signature Page Follows*]

Date: March 1, 2021.

Attest:

/s/ Rajesh Sharma
Rajesh Sharma
Corporate Secretary

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Second Amendment to the
APA CORPORATION
2011 Omnibus Equity Compensation Plan

WHEREAS, APA Corporation, a Delaware corporation (the "Company"), sponsors and maintains the 2011 Omnibus Equity Compensation Plan, as amended and restated effective May 12, 2016, and as amended prior to the date hereof, including as amended by that certain Assignment and Assumption Agreement dated as of March 1, 2021, whereby Apache Corporation assigned the plan to the Company and the Company assumed the plan from Apache Corporation (the "Plan"); and

WHEREAS, the Company, pursuant to Section 16 of the Plan, has the right to amend the Plan, subject to such amendments being approved by the Board of Directors or the Management Development and Compensation Committee of the Company; and

WHEREAS, the Company desires to amend the definitions of "Involuntary Termination" and "Voluntary Termination with Cause" to reflect that following the holding company reorganization of the Company with Apache Corporation, officers of Apache Corporation became officers of the Company but remain employees of Apache Corporation.

NOW, THEREFORE, the Plan is amended as follows:

1. Section 2.1(o) is hereby amended in its entirety as follows:

(o) "Involuntary Termination" means the termination of employment of the Participant by the Company or its successor or an applicable Affiliate for any reason on or after a Change of Control; provided that the termination does not result from an act of the Participant that (i) constitutes common law fraud, a felony, or gross malfeasance of duty and (ii) is materially detrimental to the best interests of the Company or its successor; provided that, notwithstanding anything else in this Plan to the contrary, an Involuntary Termination shall not be deemed to occur solely because a Participant transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

2. Section 2.1(cc) is hereby amended in its entirety as follows:

(cc) "Voluntary Termination with Cause" occurs upon a Participant's separation from service of his or her own volition and one or more of the following conditions occurs without the Participant's consent on or after a Change of Control:

(i) There is a material diminution in the Participant's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(ii) There is a material diminution in the Participant's authority, duties, or responsibilities.

(iii) There is a material diminution in the authority, duties, or responsibilities of the Participant's supervisor, such as a requirement that the Participant (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(iv) There is a material diminution in the budget over which the Participant retains authority.

(v) There is a material change in the geographic location at which the Participant must perform his or her service, including, for example the assignment of the Participant to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

The Participant must notify the Company of the existence of one or more adverse conditions specified in clauses (i) through (v) above within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company's Vice President, Human Resources or his/her delegate. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's Vice President, Human Resources or his/her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Participant by certified mail. Notwithstanding the foregoing provisions of this definition, if the Company remedies the adverse condition within 30 days of being notified of the adverse condition, no Voluntary Termination with Cause shall occur.

3. With respect to Awards intended to constitute "qualified performance-based compensation" and granted on or before to November 2, 2017, to any Covered Employee (as modified by the Tax Cuts and Jobs Act of 2017), the foregoing amendments shall not apply with respect to any such Awards if such amendments constitute a material modification of the Plan or the applicable Award agreement as determined under Section 162(m) of the Code, IRS Notice 2018-68, Treasury Regulation § 1.162-33, and other applicable guidance that would otherwise result in some or all of such Awards not being deductible by the Company or its affiliates for federal tax purposes.

[*Signature Page Follows*]

Date: March 1, 2021.

Attest:

/s/ Rajesh Sharma
Rajesh Sharma
Corporate Secretary

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Second Amendment to the
APA CORPORATION
2016 Omnibus Compensation Plan

WHEREAS, APA Corporation, a Delaware corporation (the "Company"), sponsors and maintains the 2016 Omnibus Compensation Plan, originally effective May 12, 2016, and as amended prior to the date hereof, including as amended by that certain Assignment and Assumption Agreement dated as of March 1, 2021, whereby Apache Corporation assigned the plan to the Company and the Company assumed the plan from Apache Corporation (the "Plan"); and

WHEREAS, the Company, pursuant to Section 17 of the Plan, has the right to amend the Plan, subject to such amendments being approved by the Board of Directors or the Management Development and Compensation Committee of the Company; and

WHEREAS, the Company desires to amend the definitions of "Involuntary Termination" and "Voluntary Termination with Cause" to reflect that following the holding company reorganization of the Company with Apache Corporation, officers of Apache Corporation became officers of the Company but remain employees of Apache Corporation.

NOW, THEREFORE, the Plan is amended as follows:

1. Section 2.1(q) is hereby amended in its entirety as follows:

(q) "Involuntary Termination" means the termination of employment of the Participant by the Company or its successor or an applicable Affiliate for any reason on or after a Change of Control; provided that the termination does not result from an act of the Participant that (i) constitutes common law fraud, a felony, or gross malfeasance of duty and (ii) is materially detrimental to the best interests of the Company or its successor; provided that, notwithstanding anything else in this Plan to the contrary, an Involuntary Termination shall not be deemed to occur solely because a Participant transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

2. Section 2.1(ff) is hereby amended in its entirety as follows:

(ff) "Voluntary Termination with Cause" occurs upon a Participant's separation from service of his or her own volition and one or more of the following conditions occurs without the Participant's consent on or after a Change of Control:

(i) There is a material diminution in the Participant's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(ii) There is a material diminution in the Participant's authority, duties, or responsibilities.

(iii) There is a material diminution in the authority, duties, or responsibilities of the Participant's supervisor, such as a requirement that the Participant (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(iv) There is a material diminution in the budget over which the Participant retains authority.

(v) There is a material change in the geographic location at which the Participant must perform his or her service, including, for example the assignment of the Participant to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

The Participant must notify the Company of the existence of one or more adverse conditions specified in clauses (i) through (v) above within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company's Vice President, Human Resources or his/her delegate. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's Vice President, Human Resources or his/her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Participant by certified mail. Notwithstanding the foregoing provisions of this definition, if the Company remedies the adverse condition within 30 days of being notified of the adverse condition, no Voluntary Termination with Cause shall occur.

3. With respect to Awards intended to constitute "qualified performance-based compensation" and granted on or before to November 2, 2017, to any Covered Employee (as modified by the Tax Cuts and Jobs Act of 2017), the foregoing amendments shall not apply with respect to any such Awards if such amendments constitute a material modification of the Plan or the applicable Award agreement as determined under Section 162(m) of the Code, IRS Notice 2018-68, Treasury Regulation § 1.162-33, and other applicable guidance that would otherwise result in some or all of such Awards not being deductible by the Company or its affiliates for federal tax purposes.

[*Signature Page Follows*]

Date: March 1, 2021.

Attest:

/s/ Rajesh Sharma
Rajesh Sharma
Corporate Secretary

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Exhibit 10.7

APA CORPORATION

Amendment of Restricted Stock Unit Award Agreement

APA Corporation (the "Company") sponsors the APA Corporation 2007 Omnibus Equity Compensation Plan, the APA Corporation 2011 Omnibus Equity Compensation Plan, and the APA Corporation 2016 Omnibus Compensation Plan (collectively, the "Plans"), which were assigned by Apache Corporation to the Company and assumed by the Company from Apache Corporation pursuant to that certain Assignment and Assumption Agreement dated as of March 1, 2021 (the "Assignment and Assumption Agreement"). Pursuant to the Plans, "Restricted Stock Units" (as defined in the Plans) have been granted to various "Eligible Persons" (as defined in the Plan), and the Company, pursuant to the terms of the APA Corporation Restricted Stock Unit Award Agreement (as assigned by Apache Corporation to the Company and assumed by the Company from Apache Corporation pursuant to the Assignment and Assumption Agreement, the "RSU Agreement") and the Plans, reserved the right to amend the RSU Agreement from time to time. The Company, effective March 1, 2021, exercised that right with respect to only those RSU Agreements that are valid and outstanding prior to March 1, 2021, as follows:

1. The definition of "Involuntary Termination" is replaced in its entirety to read as follows:

"Involuntary Termination" means the termination of employment of the Recipient by the Company or its successor or an applicable Affiliate for any reason on or after a Change of Control; provided that the termination does not result from an act of the Recipient that (i) constitutes common law fraud, a felony, or gross malfeasance of duty and (ii) is materially detrimental to the best interests of the Company or its successor; provided that, notwithstanding anything else in this Agreement to the contrary, an Involuntary Termination shall not be deemed to occur solely because a Recipient transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

2. The definition of "Voluntary Termination with Cause" is replaced in its entirety to read as follows:

"Voluntary Termination with Cause" occurs upon a Recipient's separation from service of his or her own volition and one or more of the following conditions occurs without the Recipient's consent on or after a Change of Control:

(a) There is a material diminution in the Recipient's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(b) There is a material diminution in the Recipient's authority, duties, or responsibilities.

(c) There is a material diminution in the authority, duties, or responsibilities of the Recipient's supervisor, such as a requirement that the Recipient (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(d) There is a material diminution in the budget over which the Recipient retains authority.

(e) There is a material change in the geographic location at which the Recipient must perform his or her service, including, for example the assignment of the Recipient to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

The Recipient must notify the Company of the existence of one or more adverse conditions specified in clauses (a) through (e) above within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company or its successor, attention: Vice President, Human Resources. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's Vice President, Human Resources or his/her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Recipient by certified mail. Notwithstanding the foregoing provisions of this definition, if the Company remedies the adverse condition within 30 days of being notified of the adverse condition, no Voluntary Termination with Cause shall occur.

3. The previous stated revisions shall apply to any RSU Agreement whether the payment is to be in the Company's common stock or in cash, and the provisions in the RSU Agreement related to such payments shall be maintained as provided in an RSU Agreement.

4. If an RSU Agreement contains different Section cites, headings, etc., but contains similar provisions to those being replaced by the replacement provisions set forth in the foregoing, then the replacement provisions shall apply to such RSU Agreements and such RSU Agreements are amended in accordance with the foregoing revisions subject to adjustment, as appropriate, for the different Section cites, headings, etc., and if any Section or paragraph containing a provision to be replaced as set forth in this amendment has an introductory sentence or clause or ending sentence or clause, the replacement provision shall include any such introductory and/or ending sentence or clause.

5. With respect to Restricted Stock Units intended to constitute "qualified performance-based compensation" and granted pursuant to RSU Agreements on or before to November 2, 2017, to any "covered employee" (as determined under Section 162(m) of the Code, as amended by the Tax Cuts and Jobs Act of 2017), the foregoing amendments shall not apply if such amendments constitute a material modification of the RSU Agreement as determined under Section 162(m) of the Code, IRS Notice 2018-68,

Treasury Regulation § 1.162-33, and other applicable guidance that would otherwise result in some or all of such Restricted Stock Units not being deductible by the Company or its affiliates for federal tax purposes.

[*Signature Page Follows*]

EXECUTED this 1st day of March, 2021.

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

APA CORPORATION

Amendment of Performance Share Grant Agreement

APA Corporation (the "Company") sponsors the APA Corporation 2011 Omnibus Equity Compensation Plan and the APA Corporation 2016 Omnibus Compensation Plan (collectively, the "Plans"), which were assigned by Apache Corporation to the Company and assumed by the Company from Apache Corporation pursuant to that certain Assignment and Assumption Agreement dated as of March 1, 2021 (the "Assignment and Assumption Agreement"). Pursuant to the Plans and the annual Performance Share Programs initiated thereunder ("Performance Programs"), Conditional Grants (as defined in the Performance Programs) of Restricted Stock Units (as defined in the Plans) have been granted to various "Eligible Persons" (as defined in the Plan), and the Company, pursuant to the terms of the various Performance Share Program Agreements (as assigned by Apache Corporation to the Company and assumed by the Company from Apache Corporation pursuant to the Assignment and Assumption Agreement, the "Performance Share Agreements") and the Plans, reserved the right to amend the Performance Share Agreements from time to time. The Company, effective March 1, 2021, exercised that right with respect to only those Performance Share Agreements that are valid and outstanding prior to March 1, 2021 and other than as provided in certain resolutions adopted by the Board of Directors of the Company, as follows:

1. The definition of "Involuntary Termination" is replaced in its entirety to read as follows:

"Involuntary Termination" means the termination of employment of the Recipient by the Company or its successor or an applicable Affiliate for any reason on or after a Change of Control; provided that the termination does not result from an act of the Recipient that (i) constitutes common law fraud, a felony, or gross malfeasance of duty and (ii) is materially detrimental to the best interests of the Company or its successor; provided that, notwithstanding anything else in this Agreement to the contrary, an Involuntary Termination shall not be deemed to occur solely because a Recipient transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

2. The definition of "Voluntary Termination with Cause" is replaced in its entirety to read as follows:

"Voluntary Termination with Cause" occurs upon a Recipient's separation from service of his or her own volition and one or more of the following conditions occurs without the Recipient's consent on or after a Change of Control:

(a) There is a material diminution in the Recipient's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(b) There is a material diminution in the Recipient's authority, duties, or responsibilities.

(c) There is a material diminution in the authority, duties, or responsibilities of the Recipient's supervisor, such as a requirement that the Recipient (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(d) There is a material diminution in the budget over which the Recipient retains authority.

(e) There is a material change in the geographic location at which the Recipient must perform his or her service, including, for example the assignment of the Recipient to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

The Recipient must notify the Company of the existence of one or more adverse conditions specified in clauses (a) through (e) above within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company or its successor, attention: Vice President, Human Resources. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's Vice President, Human Resources or his/her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Recipient by certified mail. Notwithstanding the foregoing provisions of this definition, if the Company remedies the adverse condition within 30 days of being notified of the adverse condition, no Voluntary Termination with Cause shall occur.

3. The previous stated revisions shall apply to any Performance Share Agreement whether the payment is to be in the Company's common stock or in cash, and the provisions in the Performance Share Agreement related to such payments shall be maintained as provided in a Performance Share Agreement.

4. If a Performance Share Agreement contains different Section cites, headings, etc., but contains similar provisions to those being replaced by the replacement provisions set forth in the foregoing, then the replacement provisions shall apply to such Performance Share Agreements and such Performance Share Agreements are amended in accordance with the foregoing revisions subject to adjustment, as appropriate, for the different Section cites, headings, etc., and if any Section or paragraph containing a provision to be replaced as set forth in this amendment has an introductory sentence or clause or ending sentence or clause, the replacement provision shall include any such introductory and/or ending sentence or clause.

5. With respect to Restricted Stock Units intended to constitute "qualified performance-based compensation" and granted pursuant to Performance Share Agreements on or before to November 2, 2017, to any "covered employee" (as determined under Section 162(m) of the Code, as amended by the Tax Cuts and Jobs Act of 2017), the foregoing amendments shall not apply if such amendments constitute a material modification of the Performance Share Agreement as determined under Section

162(m) of the Code, IRS Notice 2018-68, Treasury Regulation § 1.162-33, and other applicable guidance that would otherwise result in some or all of such Restricted Stock Units not being deductible by the Company or its affiliates for federal tax purposes.

[*Signature Page Follows*]

EXECUTED this 1st day of March, 2021.

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Exhibit 10.9

APA CORPORATION

Amendment of Stock Option Grant Agreement

APA Corporation (the "Company") sponsors the APA Corporation 2007 Omnibus Equity Compensation Plan, the APA Corporation 2011 Omnibus Equity Compensation Plan, and the APA Corporation 2016 Omnibus Compensation Plan (collectively, the "Plans"), which were assigned by Apache Corporation to the Company and assumed by the Company from Apache Corporation pursuant to that certain Assignment and Assumption Agreement dated as of March 1, 2021 (the "Assignment and Assumption Agreement"). Pursuant to the Plans, "Options" (as defined in the Plans) have been granted to various "Eligible Persons" (as defined in the Plan), and the Company, pursuant to the terms of the APA Corporation Stock Option Grant Agreement (as assigned by Apache Corporation to the Company and assumed by the Company from Apache Corporation pursuant to the Assignment and Assumption Agreement, the "Option Agreement") and the Plans, reserved the right to amend the Option Agreement from time to time. The Company, effective March 1, 2021, exercised that right with respect to only those Option Agreements that are valid and outstanding prior to March 1, 2021 and other than as provided in certain resolutions adopted by the Board of Directors of the Company, as follows:

1. The definition of "Involuntary Termination" is replaced in its entirety to read as follows:

"Involuntary Termination" means the termination of employment of the Participant by the Company or its successor or an applicable Affiliate for any reason on or after a Change of Control; provided that the termination does not result from an act of the Participant that (i) constitutes common law fraud, a felony, or gross malfeasance of duty and (ii) is materially detrimental to the best interests of the Company or its successor; provided that, notwithstanding anything else in this Agreement to the contrary, an Involuntary Termination shall not be deemed to occur solely because a Participant transfers employment from the Company to an Affiliate, from an Affiliate to the Company, or from one Affiliate to another Affiliate.

2. The definition of "Voluntary Termination with Cause" is replaced in its entirety to read as follows:

"Voluntary Termination with Cause" occurs upon a Participant's separation from service of his or her own volition and one or more of the following conditions occurs without the Participant's consent on or after a Change of Control:

(a) There is a material diminution in the Participant's base compensation, compared to his or her rate of base compensation on the date of the Change of Control.

(b) There is a material diminution in the Participant's authority, duties, or responsibilities.

(c) There is a material diminution in the authority, duties, or responsibilities of the Participant's supervisor, such as a requirement that the Participant (or his or her supervisor) report to a corporate officer or employee instead of reporting directly to the board of directors.

(d) There is a material diminution in the budget over which the Participant retains authority.

(e) There is a material change in the geographic location at which the Participant must perform his or her service, including, for example the assignment of the Participant to a regular workplace that is more than 50 miles from his or her regular workplace on the date of the Change of Control.

The Participant must notify the Company of the existence of one or more adverse conditions specified in clauses (a) through (e) above within 90 days of the initial existence of the adverse condition. The notice must be provided in writing to the Company or its successor, attention: Vice President, Human Resources. The notice may be provided by personal delivery or it may be sent by email, inter-office mail, regular mail (whether or not certified), fax, or any similar method. The Company's Vice President, Human Resources or his/her delegate shall acknowledge receipt of the notice within 5 business days; the acknowledgement shall be sent to the Participant by certified mail. Notwithstanding the foregoing provisions of this definition, if the Company remedies the adverse condition within 30 days of being notified of the adverse condition, no Voluntary Termination with Cause shall occur.

3. If an Option Agreement contains different Section cites, headings, etc., but contains similar provisions to those being replaced by the replacement provisions set forth in the foregoing, then the replacement provisions shall apply to such Option Agreement and such Option Agreements are amended in accordance with the foregoing revisions subject to adjustment, as appropriate, for the different Section cites, headings, etc., and if any Section or paragraph containing a provision to be replaced as set forth in this amendment has an introductory sentence or clause or ending sentence or clause, the replacement provision shall include any such introductory and/or ending sentence or clause.

4. With respect to Options intended to constitute "qualified performance-based compensation" and granted pursuant to Option Agreements on or before to November 2, 2017, to any "covered employee" (as determined under Section 162(m) of the Code, as amended by the Tax Cuts and Jobs Act of 2017), the foregoing amendments shall not apply if such amendments constitute a material modification of the Option Agreement as determined under Section 162(m) of the Code, IRS Notice 2018-68, Treasury Regulation § 1.162-33, and other applicable guidance that would otherwise result in some or all of such Options not being deductible by the Company or its affiliates for federal tax purposes.

[*Signature Page Follows*]

EXECUTED this 1st day of March, 2021.

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Exhibit 10.10

Apache Corporation 401(k) Savings Plan

Amendment to Definition of Change of Control

Apache Corporation ("Apache") sponsors the Apache Corporation 401(k) Savings Plan (the "Plan"). In section 10.4 of the Plan, Apache reserved the right to amend the Plan from time to time. Apache hereby exercises that right as follows, effective March 1, 2021:

1. Subsection 5.1(c) is hereby deleted and superseded in its entirety by the following:

   (c) Change of Control. The Company Contributions Accounts of all Participants shall be fully vested as of the "Effective Date" of a "Change of Control," as such terms are defined in APA Corporation's Income Continuance Plan or any successor to such plan.

[*Signature Page Follows*]

EXECUTED this 1st day of March, 2021.

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Signature Page to Apache Corporation 401(k) Savings Plan
Amendment to Definition of Change of Control

Apache Corporation Non-Qualified Retirement/Savings Plan

Amendment to Definition of Change of Control

Apache Corporation ("Apache") sponsors the Apache Corporation Non-Qualified Retirement/Savings Plan (the "Plan"). In section 8.02 of the Plan, Apache reserved the right to amend the Plan from time to time. Apache hereby exercises that right as follows, effective March 1, 2021:

1. Section 1.06 (Change of Control) is hereby amended by replacing the word "Apache" with the phrase "APA Corporation, a Delaware corporation, or its successor".

[*Signature Page Follows*]

EXECUTED this 1st day of March, 2021.

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Exhibit 10.12

Apache Corporation Non-Qualified Restorative Retirement Savings Plan

Amendment to Definition of Change of Control

Apache Corporation ("Apache") sponsors the Apache Corporation Non-Qualified Restorative Retirement Savings Plan (the "Plan"). In section 8.02 of the Plan, Apache reserved the right to amend the Plan from time to time. Apache hereby exercises that right as follows, effective March 1, 2021:

1. Section 1.06 (Change of Control) is hereby amended by replacing the word "Apache" with the phrase "APA Corporation, a Delaware corporation, or its successor".

[*Signature Page Follows*]

EXECUTED this 1st day of March, 2021.

APACHE CORPORATION

By: /s/ Brandy Jones
Brandy Jones
Vice President, Human Resources

Signature Page to Apache Corporation Non-Qualified Restorative Retirement Savings Plan
Amendment to Definition of Change of Control

NEWS RELEASE

Apache Corporation and APA Corporation Announce Completion of New Holding Company Structure

HOUSTON, Mar. 1, 2021 – Apache Corporation (Apache) and APA Corporation (Nasdaq: APA) (APA or the Company) today announced completion of the previously announced holding company structure, making APA the parent holding company of Apache. APA replaces Apache as the public company trading on the Nasdaq stock market under the ticker symbol “APA.”

Each share of Apache common stock outstanding immediately prior to the reorganization has automatically converted, on a one-for-one basis, into a share of common stock of APA, having the same designation, rights, powers, and preferences and qualifications, limitations, and restrictions as a share of Apache common stock immediately prior to the reorganization. Accordingly, Apache stockholders automatically became stockholders of APA with the same number and ownership percentage of shares as they held in Apache immediately prior to the reorganization. Apache now operates as a wholly-owned subsidiary of APA. The Board of Directors and the executive officers of Apache immediately prior to the reorganization continue in their same roles at APA.

The holding company reorganization, which is intended to be a tax-free transaction for U.S. federal income tax purposes for the Company’s stockholders, will modernize the Company’s operating and legal structure, provide financial and administrative flexibility, and more closely align the Company’s legal structure with its growing international presence.

In connection with the reorganization, APA also acquired the Suriname and Dominican Republic subsidiaries from Apache. Apache continues to hold existing assets in the U.S., subsidiaries in Egypt and the U.K., and its current economic interests in Altus Midstream Company (Nasdaq: ALTM) and Altus Midstream LP.

APA’s common stock will begin trading at the opening of trading on March 2, 2021, under the new CUSIP number 03743Q108.

About APA

APA Corporation, through its consolidated subsidiaries, explores for and produces oil and gas with operations in the United States, Egypt and the United Kingdom and exploration activities offshore Suriname. APA posts announcements, operational updates, investor information and press releases on its website, www.apacorp.com. Specific information concerning Suriname, ESG performance and other investor-related topics are posted at investor.apacorp.com.

About Apache

Apache Corporation, a direct, wholly-owned subsidiary of APA Corporation, is an oil and gas exploration and production company with operations in the United States, Egypt and the United Kingdom. Apache holds a majority interest in Altus Midstream Company, which, through its consolidated subsidiaries, operates gathering, processing and transmission assets in West Texas and holds equity ownership in four Permian-to-Gulf Coast pipelines.

Forward-looking statements

This news release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements can be identified by words such as “anticipates,” “intends,” “plans,” “seeks,” “believes,” “continues,” “could,” “estimates,” “expects,” “guidance,” “may,” “might,” “outlook,” “possibly,” “potential,” “projects,” “prospects,” “should,” “will,” “would,” and similar references to future periods, but the absence of these words does not mean that a statement is not forward-looking. These statements include, but are not limited to, statements about future plans, expectations, and objectives for APA’s and/or Apache’s operations, including statements about our capital plans, drilling plans, production expectations, asset sales, and monetizations. While forward-looking statements are based on assumptions and analyses made by us that we believe to be reasonable under the circumstances, whether actual results and developments will meet our expectations and predictions depend on a number of risks and uncertainties which could cause our actual results, performance, and financial condition to differ materially from our expectations. See “Risk Factors” in Apache’s Form 10-K for the

year ended December 31, 2020, filed with the Securities and Exchange Commission on February 25, 2021, for a discussion of risk factors that affect our business. Any forward-looking statement made by APA and/or Apache in this news release speaks only as of the date on which it is made. Factors or events that could cause our actual results to differ may emerge from time to time, and it is not possible for us to predict all of them. APA and Apache undertake no obligation to publicly update any forward-looking statement, whether as a result of new information, future development or otherwise, except as may be required by law.

Contacts

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