

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of Earliest Event Reported): **July 1, 2018**

National CineMedia, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-33296
(Commission
file number)

20-5665602
(IRS employer
identification no.)

6300 S. Syracuse Way, Suite 300
Centennial, Colorado 80111
(Address of principal executive offices, including zip code)

(303) 792-3600
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2 below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 210.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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.

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

Appointment of New Director

On July 1, 2018, Andrew P. Glaze joined the Board of Directors of National CineMedia, Inc. (the “Company”). Additional information about Mr. Glaze and the conditions surrounding his appointment can be found in the Company’s Current Report on Form 8-K filed on June 1, 2018. Paula Williams Madison, a director since 2014, resigned from the Board immediately prior to Mr. Glaze’s appointment, and Mr. Glaze was appointed to fill the resulting vacancy.

Mr. Glaze will initially serve on the Compensation Committee and Nominating and Governance Committee of the Board. Following Mr. Glaze’s appointment, the Compensation Committee of the Board is composed of Mr. Glaze, Lawrence A. Goodman, David R. Haas and Thomas F. Lesinski, and the Nominating and Governance Committee of the Board is composed of Mr. Glaze, Mr. Goodman and Scott N. Schneider.

Declassification of Board of Directors

Information regarding the resignation and re-appointment of directors in connection with the declassification of the Company’s Board of Directors is incorporated by reference into this Item 5.02 from Item 5.03 below.

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

At the Company’s Annual Meeting of the Stockholders (the “Annual Meeting”) held on July 6, 2018, the stockholders approved a proposal to amend the Company’s Amended and Restated Certificate of Incorporation (the “Certificate of Incorporation”) to declassify the Company’s Board of Directors and to provide instead for the annual election of directors, increase the maximum size of the Board from ten to eleven directors, and amend certain Board approval rights. The amendment to the Certificate of Incorporation is more fully described in the Company’s definitive proxy statement on Schedule 14A filed on June 11, 2018. The amendment became effective upon acceptance of the filing by the Secretary of State of the State of Delaware on July 6, 2018.

In order to immediately declassify the Board following the amendment to the Certificate of Incorporation, each of the Company’s Class I and Class II directors, whose terms otherwise expired in 2020 and 2021 respectively, tendered his resignation to the Board and was immediately reappointed to a term ending at the Company’s 2019 Annual Meeting of Stockholders. As a result, all of the Company’s directors will stand for election at the 2019 Annual Meeting.

Effective July 6, 2018, the Board also approved an amendment to Section 3.02 of the Company’s Amended and Restated Bylaws (the “Bylaws”) to provide that the Board shall consist of no more than nine directors, provided that the Board may consist of up to eleven directors if needed to appoint directors designated by Standard General L.P. pursuant to the letter agreement between the Company and Standard General dated June 1, 2018.

Copies of the Certificate of Incorporation and Bylaws as amended are filed as Exhibits 3.1 and 3.2 to this Current Report on Form 8-K and are incorporated herein by reference. The foregoing summaries are qualified in their entirety by reference to such exhibits.

Item 5.07 Submission of Matters to a Vote of Security Holders.

The Annual Meeting was held on July 6, 2018. The matters that were voted upon at the Company's Annual Meeting, and the number of votes cast for, against or withheld, as well as the number of abstentions and broker non-votes as to each such matter, where applicable, are set forth below. Each of the proposals submitted to a vote of the Company's stockholders at the Annual Meeting was approved.

Proposal No. 1 — Election of Class II Directors

Name	For	Withheld	Broker Non-Votes
Andrew P. Glaze	63,452,527	605,721	8,243,835
David R. Haas	63,027,921	1,030,327	8,243,835
Thomas F. Lesinski	63,297,512	760,736	8,243,835
Mark B. Segall	63,484,895	573,353	8,243,835

As described in Item 5.03 above, in order to immediately declassify the Board of Directors, each of the Class II directors tendered his resignation to the Board following the effectiveness of the amendment to the Company's Certificate of Incorporation, and each such individual was immediately reappointed to a term ending at the Company's 2019 Annual Meeting of Stockholders.

Proposal No. 2 — Approval of an Amendment to our Amended and Restated Certificate of Incorporation

For	Against	Abstentions	Broker Non-Votes
63,519,611	498,865	39,772	8,243,835

Proposal No. 3 — Advisory Approval of the Company's Executive Compensation

For	Against	Abstentions	Broker Non-Votes
62,942,418	989,386	126,444	8,243,835

Proposal No. 4 — Ratify the appointment of Deloitte & Touche LLP as the Company's independent auditors for the 2018 fiscal year

For	Against	Abstentions	Broker Non-Votes
71,658,015	494,546	149,522	0

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
3.1	<u>Amended and Restated Certificate of Incorporation of National CineMedia, Inc., as amended July 6, 2018.</u>
3.2	<u>Amended and Restated Bylaws of National CineMedia, Inc., as amended July 6, 2018.</u>

SIGNATURES

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

NATIONAL CINEMEDIA, INC.

Dated: July 6, 2018

By: /s/ Sarah Kinnick Hilty
Sarah Kinnick Hilty
Senior Vice President, General Counsel and
Secretary

**SECOND AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
NATIONAL CINEMEDIA, INC.**

National CineMedia, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Corporation"), hereby certifies that:

- A. The name of the Corporation is National CineMedia, Inc. The Corporation was originally incorporated under the name National CineMedia, Inc. The Corporation's original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on October 5, 2006.
- B. This Second Amended and Restated Certificate of Incorporation (this "Certificate"), which amends and restates the original Certificate of Incorporation, as heretofore amended and restated, has been duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL").
- C. The text of the Certificate of Incorporation of the Corporation, as heretofore amended and restated, is hereby amended and restated in its entirety to read as follows:

**ARTICLE I
NAME**

The name of the Corporation is National CineMedia, Inc.

**ARTICLE II
REGISTERED ADDRESS, AGENT**

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

**ARTICLE III
PURPOSES**

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

**ARTICLE IV
CAPITAL, VOTING, CONVERSION**

Section 4.1 Authorized Shares. The total number of shares of capital stock that the Corporation shall have authority to issue is 185,000,000, which shall be divided into the following classes:

- (a) 175,000,000 shares shall be of a class designated Common Stock, par value \$0.01 per share ("Common Stock"); and
- (b) 10,000,000 shares shall be of a class designated Preferred Stock, par value \$0.01 per share ("Preferred Stock").

The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares then outstanding and the number then reserved for issuance upon the exercise, conversion or exchange of Rights (including, without limitation, Membership Units)) by an amendment to this Certificate approved by

the affirmative vote of the holders of a majority of the outstanding Common Stock (and any other class or series of stock entitled to vote with the Common Stock).

Section 4.2 Voting Power of Common Stock. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held on all matters submitted to a vote of stockholders of the Corporation on which holders of Common Stock are entitled to vote. Except as may otherwise be required by the DGCL, by the provisions of this Certificate or any Preferred Stock Designation, the holders of outstanding shares of Common Stock, and the holders of outstanding shares of each series of Preferred Stock entitled to vote thereon, if any, shall vote as one class with respect to all matters to be voted on by the stockholders of the Corporation, and no separate vote or consent of the holders of shares of Common Stock or the holders of shares of any series of Preferred Stock, if any, shall be required for the approval of any such matter.

Notwithstanding the foregoing and provided that the subject matter being voted thereon does not adversely affect the rights, powers or preferences of the Common Stock, holders of Common Stock shall not be entitled to vote on any amendment to this Certificate (including any amendment to any Preferred Stock Designation) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote exclusively thereon pursuant to this Certificate (including any Preferred Stock Designation).

Section 4.3 Exchange Rights.

(a) The LLC shall be entitled to exchange Membership Units, at any time and from time to time, on a one-for-one basis, into the same number of fully paid and non-assessable shares of Common Stock as may be required for the LLC to meet an obligation under the LLC Agreement to redeem Membership Units, subject to the Corporation's right to elect a Cash Settlement. The LLC's right to exchange Membership Units, and the Corporation's obligations under this Section 4.3, shall be subject to the delivery of written notice (the "Redemption Notice") by a Member to the LLC and the Corporation of such Member's intent to cause the LLC to redeem all or a portion of the Membership Units held by such Member. The date specified in the Redemption Notice as the date that the LLC shall redeem the Membership Units shall also be the date (the "Exchange Date") on which the exchange of Membership Units for shares of Common Stock shall occur. The number of Membership Units that the LLC shall issue and deliver to the Corporation for exchange on the Exchange Date pursuant to this Section 4.3 (the "Exchanged Units") shall be equal to the number of Membership Units specified in the Redemption Notice to be redeemed by the LLC.

(b) Upon receipt of the Redemption Notice, the Corporation, in its sole discretion, may elect to deliver shares of Common Stock equal to the number of Exchanged Units (the "Share Settlement"), or may, in lieu of exchanging Common Stock for Exchanged Units, make a cash payment to the LLC in an amount equal to the number of Exchanged Units multiplied by the applicable Exchange Price (the "Cash Settlement"). Within three (3) Business Days of receipt of the Redemption Notice, the Corporation shall deliver written notice to the LLC (with a copy to the holder of Membership Units exercising its right to cause the LLC to redeem all or a portion of its Membership Units) of its intended settlement method (the "Settlement Notice"). If a Settlement Notice is not delivered within such three (3) day period, the Corporation shall be deemed to have elected a Share Settlement. If the Corporation elects to satisfy its exchange obligation through a Cash Settlement, then the holder of Membership Units exercising its right to cause the LLC to redeem all or a portion of its Membership Units may retract its Redemption Notice by delivering written notice of retraction (the "Retraction Notice") to the LLC (with a copy to the Corporation) within two (2) Business Days of delivery of the Settlement Notice. If the Corporation elects to satisfy its exchange obligation through a Cash Settlement, the Corporation will sell to a third party a number of shares of Common Stock equal to the number of Exchanged Units and shall assure that the number of outstanding shares of Common Stock will equal on a one-for-one basis the number of Membership Units owned by the Corporation. Any Redemption Notice, Settlement Notice or Retraction Notice delivered by or to the Corporation may be delivered by hand or sent by facsimile, electronic mail or nationally recognized

overnight delivery service and shall be deemed given when received if delivered on a Business Day during normal business hours of the recipient or, if not so delivered, on the next Business Day following receipt or delivery.

(c) Unless a timely Retraction Notice has been delivered to the Corporation, on the Exchange Date the following shall occur:

(1) the LLC shall (A) issue and deliver to the Corporation a certificate representing the number of Exchanged Units to be exchanged, and (B) deliver to the Corporation all transfer tax stamps or funds therefor, if required pursuant to Section 4.3(g);

(2) the Corporation shall deliver to the LLC (or such other party that the LLC may designate in accordance with Section 4.3(d)) one of the following:

(i) in a Share Settlement for the Exchanged Units, the Corporation shall issue to the LLC or in such other name or names the LLC may direct a number of shares of Common Stock equal to the number of Exchanged Units; or

(ii) in a Cash Settlement for the Exchanged Units, the Corporation shall pay to the LLC or such other Person as the LLC may direct, by wire transfer of immediately available funds, an amount equal to the number of Exchanged Units multiplied by the then applicable Exchange Price.

(d) Unless a timely Retraction Notice has been delivered to the Corporation, on the Exchange Date, provided the LLC has delivered one or more certificates representing Exchanged Units in the manner provided in Section 4.3(c) and paid in cash any amount required by Section 4.3(g), the Corporation will deliver or cause to be delivered at the office of the Corporation's transfer agent, a certificate or certificates representing the number of full shares of Common Stock issuable upon such exchange in a Share Settlement, issued in the name of the LLC or in such other name or names the LLC may direct. If the Corporation has elected a Cash Settlement in accordance with Section 4.3(b), the Corporation will deliver the Cash Settlement amount to the LLC. Such exchange shall be deemed to have been effected immediately prior to the close of business on the Exchange Date. The person or persons in whose name or names the certificate or certificates representing the shares of Common Stock are to be issued shall be treated for all purposes as having become the record holder or holders of such shares of Common Stock immediately prior to the close of business on the Exchange Date.

(e) In the event of a reclassification or other similar transaction as a result of which the shares of Common Stock are converted into another security, then the LLC shall be entitled to receive upon exchange of Membership Units the amount of such security that such holder would have received if such exchange had occurred immediately prior to the record date of such reclassification or other similar transaction. No adjustments in respect of dividends shall be made upon the exchange of any Membership Unit; *provided, however*, that if a Membership Unit shall be exchanged subsequent to the record date for the payment of a dividend or other distribution on Membership Units but prior to such payment, then the registered holder of such Membership Unit at the close of business on such record date shall be entitled to receive the dividend or other distribution payable on such Membership Unit notwithstanding the exchange thereof or the default in settlement of the exchange or payment of the dividend or distribution due.

(f) The Corporation will at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of issuance upon exchange of Membership Units by the LLC in accordance with this Section 4.3, such number of shares of Common Stock that shall be issuable upon the exchange of all outstanding Membership Units exchangeable hereunder; provided that nothing contained herein shall preclude the Corporation from satisfying its obligations in respect of the exchange of the outstanding Membership Units by delivery of shares of Common Stock that are held in the treasury of the Corporation. If any shares of Common Stock require registration with or approval of any governmental authority under any federal or state law before such shares of Common Stock may be issued upon exchange, the Corporation will

cause such shares to be duly registered or approved, as the case may be. All shares of Common Stock that are issued upon exchange of the Membership Units will, upon issue, be validly issued, fully paid and non-assessable and be listed upon each national securities exchange, other securities exchange or automated or electronic quotation system upon which the outstanding Common Stock is listed at the time of delivery.

(g) The issuance of certificates representing shares of Common Stock upon exchange of Membership Units in a Share Settlement shall be made without charge to the LLC for any stamp or other similar tax in respect of such issuance; *provided, however*, that if any such certificate is to be issued in a name other than that of the LLC, then the person or persons requesting the issuance thereof shall pay to the LLC for remittance to the Corporation the amount of any tax that may be payable in respect of any transfer involved in such issuance or shall establish to the satisfaction of the Corporation that such tax has been paid or is not payable.

Section 4.4 Stock Splits, Ratios, Adjusting Outstanding Shares of Common Stock or Membership Units.

(a) The Corporation shall undertake all actions, including, without limitation, a reclassification, dividend, division or recapitalization, with respect to the shares of Common Stock or the Membership Units (in the case of the LLC, the Corporation authorizing such in its capacity as manager of the LLC), to maintain at all times a one-to-one ratio between the number of Membership Units owned by the Corporation and the number of outstanding shares of Common Stock, disregarding, for purposes of maintaining the one-to-one ratio, shares of Common Stock issued pursuant to the Equity Incentive Plan that have not vested thereunder, treasury stock, Preferred Stock or other securities of the Corporation that are not convertible into or exercisable or exchangeable for Common Stock.

(b) The Corporation shall not undertake or authorize (i) any subdivision (by any Membership Unit split, Membership Unit distribution, reclassification, recapitalization or similar event) or combination (by reverse Membership Unit split, reclassification, recapitalization or similar event) of the Membership Units that is not accompanied by an identical subdivision or combination of the Common Stock to maintain at all times a one-to-one ratio between the number of Membership Units owned by the Corporation and the number of outstanding shares of Common Stock; or (ii) any subdivision (by any stock split, stock dividend, reclassification, recapitalization or similar event) or combination (by reverse stock split, reclassification, recapitalization or similar event) of the Common Stock that is not accompanied by an identical subdivision or combination of the Membership Units to maintain at all times a one-to-one ratio between the number of Membership Units owned by the Corporation and the number of outstanding shares of Common Stock, unless, in either case, such action is necessary to maintain at all times a one-to-one ratio between the number of Membership Units owned by the Corporation and the number of outstanding shares of Common Stock.

(c) The Corporation shall not issue, transfer or deliver from treasury stock or repurchase shares of Common Stock unless in connection with any such issuance, transfer or repurchase the Corporation takes or authorizes all requisite action such that, after giving effect to all such issuances, transfers or repurchases, the number of outstanding shares of Common Stock will equal on a one-for-one basis the number of Membership Units owned by the Corporation. The Corporation shall not issue, transfer or deliver from treasury stock or repurchase shares of Preferred Stock unless in connection with any such issuance, transfer, delivery or repurchase the Corporation takes all requisite action such that, after giving effect to all such issuances, transfers or repurchases, the Corporation holds mirror equity interests of the LLC which (in the good faith determination by the Board) are in the aggregate substantially equivalent to the outstanding Preferred Stock.

Section 4.5 Dividends and Distributions. Subject to the preferences of Preferred Stock, if any, outstanding at any time, the holders of shares of Common Stock shall be entitled to receive such dividends and other distributions in property or shares of stock of the Corporation as may be declared thereon by the Board from time to time out of assets or funds of the Corporation legally available therefor.

Section 4.6 Mergers, Consolidation, Etc. The Corporation shall not consolidate, merge, combine or consummate any other transaction (in each case other than incident to an exchange or a conversion of Common Stock and/or other securities for Common Stock pursuant to the terms of this Certificate) in which shares of Common Stock are exchanged for or converted into other stock or securities, or the right to receive cash and/or any other property, unless in connection with any such consolidation, merger, combination or other transaction the Membership Units or the shares of Common Stock shall be entitled to be exchanged (subject to proration upon equitable terms in the event of a merger or consolidation upon prorated terms) for or converted into the same kind and amount of stock or securities, cash and/or any other property, as the case may be, into which or for which each Membership Unit or share of Common Stock is exchanged or converted and in each case to maintain at all times a one-to-one ratio between the number of Membership Units or other stock, securities, or rights to receive cash and/or any other property owned by the Corporation and the number of outstanding shares of Common Stock or other stock, securities, or rights to receive cash and/or any other property issued by the Corporation.

Section 4.7 Preferred Stock. The Board is authorized, subject to any limitations prescribed by applicable law, to provide from time to time for the issuance of shares of Preferred Stock in one or more series, and by filing a certificate pursuant to the DGCL (a "Preferred Stock Designation"), to establish the rights, powers and preferences of each such series of Preferred Stock, including the following:

- (a) the number of shares of that series, which may subsequently be increased or decreased (but not below the number of shares of that series then outstanding) by resolution of the Board, and the distinctive serial designation thereof;
- (b) the voting powers, full or limited, if any, of the shares of that series and the number of votes per share;
- (c) the rights in respect of dividends on the shares of that series, whether dividends shall be cumulative and, if so, from which date or dates and the relative rights or priority, if any, of payment of dividends on shares of that series and any limitations, restrictions or conditions on the payment of dividends;
- (d) the relative amounts, and the relative rights or priority, if any, of payment in respect of shares of that series, which the holders of the shares of that series shall be entitled to receive upon any liquidation, dissolution or winding up of the Corporation;
- (e) the terms and conditions (including the price or prices, which may vary under different conditions and at different redemption or purchase dates), if any, upon which all or any part of the shares of that series may be redeemed or purchased by the Corporation, and any limitations, restrictions or conditions on such redemption or purchase;
- (f) the terms, if any, of any purchase, retirement or sinking fund to be provided for the shares of that series;
- (g) the terms, if any, upon which the shares of that series shall be convertible into or exchangeable for shares of any other class, classes or series, or other securities, whether or not issued by the Corporation;
- (h) the restrictions, limitations and conditions, if any, upon issuance of indebtedness of the Corporation so long as any shares of that series are outstanding; and
- (i) any other preferences and relative, participating, optional or other rights and limitations not inconsistent with law, this Article IV or any resolution of the Board in accordance with this Article IV.

All shares of any one series of the Preferred Stock shall be alike in all respects. Except to the extent otherwise expressly provided in the Preferred Stock Designation for a series of Preferred Stock, the holders of shares of such series shall have no voting rights except as may be required by the laws of the DGCL. Further, unless otherwise expressly provided in the Preferred Stock Designation for a series of Preferred Stock, no consent or vote of the holders of shares of Preferred Stock or any series thereof shall be required for any amendment to this Certificate that would increase the number of authorized shares of Preferred Stock or the number of authorized shares of any series thereof or decrease the number of authorized shares of Preferred Stock or the number of authorized shares of any series thereof (but not below the number of authorized shares of Preferred Stock of such series, as the case may be, then outstanding). Except as may be provided by the Board in a Preferred Stock Designation or by applicable law, shares of any series of Preferred Stock that have been redeemed (whether through the operation of a sinking fund or otherwise) or purchased by the Corporation, or which, if convertible or exchangeable, have been converted into or exchanged for shares of stock of any other class or series shall have the status of authorized and unissued shares of Preferred Stock and may be reissued as a part of the series of which they were originally a part or may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board or as part of any other series of Preferred Stock.

Section 4.8 Liquidation, Dissolution or Winding Up. In the event of a liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the debts and liabilities of the Corporation and subject to the prior payment in full of the preferential amounts to which any series of Preferred Stock is entitled, the holders of shares of Common Stock of all classes shall share equally, on a share for share basis, in the assets of the Corporation remaining for distribution to its holders of Common Stock. Neither the consolidation or merger of the Corporation with or into any other person or persons nor the sale, transfer or lease of all or substantially all of the assets of the Corporation shall itself be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 4.8.

Section 4.9 Notice. The Corporation shall give written notice thereof to all holders of Membership Units (based on the ledger of ownership of the LLC) at least 20 days prior to (i) the date on which the Corporation sets a record date for determining rights in connection with a (x) merger, tender offer, reorganization, recapitalization, reclassification or other change in the capital structure of the Corporation or (y) any dividend or distribution (including in liquidation) and (ii) if no such record date is set, the date of such foregoing event.

ARTICLE V

BOARD OF DIRECTORS

Section 5.1 Classification and Election of Directors.

(a) The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors (the "Board") which at the effective time of this Certificate shall be comprised of nine directors. The number of directors, other than those who may be elected by the holders of one or more series of Preferred Stock voting separately by class or series, shall be fixed by the Bylaws, but shall not be more than eleven. The directors of the Corporation will be elected by the plurality of the votes cast by the holders of shares of Common Stock.

(b) Following the date hereof, and subject to the rights of holders of any series of Preferred Stock with respect to the election of directors, each director of the Corporation shall hold office until the next annual meeting of stockholders and until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal.

Section 5.2 Approval Rights of Certain Matters. So long as any Founding Member owns five percent or more of the then issued and outstanding Membership Units, including Membership Units acquired from another Founding Member or an Affiliate of another Founding Member (which, for purposes of this Section 5.2, shall be calculated to include (a) all shares of Common Stock beneficially owned by such Founding Member as of the

date of determination as a result of the redemption of any Membership Units in accordance with Article 9 of the LLC Agreement, (b) any shares of Common Stock issued in connection with any dividend or distribution on the Common Stock so received as a result of the redemption of any Membership Units, and (c) any shares of Common Stock acquired from another Founding Member provided that such other Founding Member acquired such shares of Common Stock in a transaction described in clause (a) or (b) above, but excluding (x) any shares of Common Stock otherwise acquired by the Founding Members and (y) any Membership Units issued to the Corporation in connection with redemption of Membership Units by a Founding Member (unless the Founding Member has disposed of any of the shares of Common Stock received in connection with such redemption of Membership Units (other than to another Founding Member in a transaction described in clause (c) above), in which case a number of Membership Units issued to the Corporation in connection with such redemption equal to the number of shares of Common Stock disposed of by such Founding Member shall be included in determining such Founding Member's ownership interest)), if either (i) a majority of the directors then in office have not approved any of the following actions, or (ii) (A) two directors then in office who were designated for election to the Board by Cinemark Media pursuant to Section 2.1 of the Director Designation Agreement (or if only one director so designated by Cinemark Media is serving on the Board and that director qualifies as an "independent director" under the applicable rules of The NASDAQ Stock Market LLC, then only such director), or (B) two directors then in office who were designated for election to the Board by Regal pursuant to Section 2.1 of the Director Designation Agreement (or if only one director so designated by Regal is serving on the Board and that director qualifies as an "independent director" under the applicable rules of The NASDAQ Stock Market LLC, then only such director), vote against any of the following actions, then, in either case, the Corporation shall be prohibited from (x) taking those of the following actions that were not approved by a majority of the directors as described in (i) above or were vetoed as described in (ii) above, or (y) in its capacity as manager of the LLC, authorizing or permitting the LLC to take those of the following actions that were not approved by a majority of the directors as described in (i) above or were vetoed as described in (ii) above, as the case may be:

(a) the assignment, transfer, sale or pledge of all or a portion of the Membership Interests beneficially owned by the Corporation;

(b) the acquisition, disposition, leasing or licensing of assets by the Corporation or the LLC or entering into a contract to do the foregoing, in a single transaction or in two or more transactions (related or unrelated) in any consecutive twelve-month period with an aggregate value (as determined in good faith by the Board) exceeding 20 percent of the fair market value of the business of the LLC operating as a going concern (as determined in good faith by the Board);

(c) the merger, reorganization, recapitalization, reclassification, consolidation, dissolution, liquidation or similar transaction of the Corporation or the LLC;

(d) the incurrence by the Corporation or the LLC of any funded indebtedness (including the refinancing of any funded indebtedness) or the repayment before due of any funded indebtedness (other than a working capital revolving line of credit) with a fixed term, in either case, in a single transaction or in two or more transactions (related or unrelated) in an aggregate amount in excess of \$15.0 million per year;

(e) (1) the issuance, grant or sale of shares of Common Stock or Rights with respect to Common Stock, except in connection with (x) the issuance of Rights to Common Stock in connection with the Equity Incentive Plan (or such other equity incentive compensation plan as may be approved by the Board in the future) or (y) any exchange of Membership Units in accordance with Section 4.3, or (2) the issuance, grant or sale of any Preferred Stock or Rights with respect to Preferred Stock;

(f) the authorization, issuance, grant or sale of additional Membership Interests or Rights with respect to Membership Interests (except as provided in the LLC Agreement, Unit Adjustment Agreement or pursuant to the Equity Incentive Plan or such other equity incentive compensation plan as may be approved by the Board in the future);

- (g) any amendment, modification, restatement or repeal of any provision of this Certificate or the Bylaws or the LLC Agreement;
- (h) the entering into, modification or termination of any contract of the type specified in Item 601(b)(10)(i) of Regulation S-K;
- (i) except as specifically set forth in the LLC Agreement, the declaration, setting aside or payment of any redemption of or dividends on Membership Interests, payable in cash, property or otherwise;
- (j) the material amendment (as such term is described in IM-4350-5 to Rule 4350 of the Marketplace Rules of the NASDAQ Stock Market, Inc.) to the Equity Incentive Plan or the entering into or consummation of any new equity incentive compensation plan;
- (k) any change in the current business purpose of the Corporation to serve solely as the manager of the LLC or any change in the current business purpose of the LLC to provide the services as set forth in the ESAs; and
- (l) the approval of any actions relating to the LLC that could reasonably be expected to have a material adverse tax effect on the Founding Members.

Notwithstanding anything in this Section 5.2 to the contrary, a Founding Member shall permanently cease to be a Founding Member for purposes of this Certificate (i) if at any time such Founding Member owns less than five percent of the then issued and outstanding Membership Units as determined pursuant to this Section 5.2, or (ii) upon the occurrence of a direct or indirect Change of Control of such Founding Member, or any direct or indirect holder of equity in such Founding Member (other than a Change of Control (A) of such Founding Member's ESA Party or its stockholders, or (B) in which, following the Change of Control, the Founding Member's ESA Party or its stockholders owns 50 percent or more of the general voting power of the transferee).

Section 5.3 Modification or Amendment of ESAs. Any (i) modification or amendment of an ESA which could reasonably be expected (in the good faith determination of the Board) to result in payments to or from the LLC in excess of \$50,000 or (ii) entry into or amendment of any contract or transaction which could reasonably be expected (in the good faith determination of the Board) to result in payments to or from the LLC or the Corporation in excess of \$50,000 between (a) the LLC or the Corporation and (b) any Founding Member, will require the approval of a majority of the directors then in office and a majority of the Independent Directors then in office.

Section 5.4 Term of Office. A director shall hold office until his or her successor shall be qualified and elected, subject, however, to such director's earlier death, resignation, retirement, disqualification or removal from office. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director, except as may be provided for in a Preferred Stock Designation with respect to any additional director elected by the holders of the applicable series of Preferred Stock.

Section 5.5 Removal. Subject to the rights of the holders of any series of Preferred Stock and the terms of the Director Designation Agreement, upon the effective date of this Certificate, any or all of the directors of the Corporation may be removed from office at any time, whether with or without cause, and only by the affirmative vote of the holders of at least a majority of the outstanding Common Stock.

Section 5.6 Notice of Nominations. Advance notice of nominations for the election of directors, other than nominations by the Board or a committee thereof, shall be given to the Corporation in the manner provided in the Bylaws.

Section 5.7 Newly Created Directorships and Vacancies. Subject to the rights of holders of any series of Preferred Stock, any newly created directorship resulting from an increase in the number of directors or

any other vacancy with respect to the office of a director, however caused, shall be filled only by a majority of the directors then in office (even if less than a quorum) or by a sole remaining director, in each case in accordance with the Director Designation Agreement. Subject to the terms and conditions of the Director Designation Agreement, any director elected by one or more directors to fill a newly created directorship or other vacancy shall hold office for the remainder of the full term of the class of directors to which the new directorship was added or in which the vacancy occurred and until his or her successor shall have been elected and qualified, subject, however, to such director's earlier death, resignation, retirement, disqualification or removal.

ARTICLE VI
NO LIABILITY

To the fullest extent permitted by the DGCL, as now existing or hereafter amended, a director of the Corporation shall not be liable to the Corporation or any of its stockholders for monetary damages for breach of his or her fiduciary duty as a director.

Any amendment or repeal of this Article VI shall be prospective only and shall not adversely affect any limitation, right or protection of a director of the Corporation existing under this Article VI immediately before the amendment or repeal.

ARTICLE VII
INDEMNIFICATION

Section 7.1 Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any Person who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") by reason of the fact that he or she, or a Person for whom he or she is the legal representative, is or was or has agreed to serve as a director or officer of the Corporation or is or was serving or has agreed to serve at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Person. The Corporation shall be required to indemnify or make advances to a Person in connection with a Proceeding (or part thereof) initiated by such Person only if the Proceeding (or part thereof) was authorized by the Board.

Section 7.2 Prepayment of Expenses. The Corporation shall, to the fullest extent not prohibited by law, pay the expenses (including attorneys' fees) incurred by a Person identified in Section 7.1 in defending any Proceeding in advance of its final disposition, *provided, however*, that the payment of expenses incurred by a Person identified in Section 7.1 in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by such Person to repay all amounts advanced if it should be ultimately determined that such Person is not entitled to be indemnified under this Article VII or otherwise.

Section 7.3 Claims. If a claim for indemnification or payment of expenses under this Article VII is not paid in full within 60 days after a written claim therefor has been received by the Corporation, the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action, the Corporation shall have the burden of proving that the claimant was not entitled to the requested indemnification or payment of expenses under applicable law.

Section 7.4 Non-Exclusivity of Rights. The rights conferred on any Person by this Article VII shall not be exclusive of any other rights that such Person may have or hereafter acquire under any statute, provision of this Certificate, the Bylaws, agreement, vote of stockholders or resolution of disinterested directors or otherwise.

Section 7.5 Other Indemnification. The Corporation's obligation, if any, to indemnify or advance expenses to any Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or nonprofit entity.

Section 7.6 Indemnification of Other Persons. This Article VII shall not limit the right of the Corporation, to the extent and in the manner permitted by law, to indemnify and to advance expenses to Persons other than those Persons identified in Section 7.1 when and as authorized by a majority of the entire Board (without regard to vacancies) or by the action of a committee of the Board or designated officers of the Corporation established by or designated in resolutions approved by a majority of the entire Board (without regard to vacancies); *provided, however*, that the payment of expenses incurred by such a Person in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by such Person to repay all amounts advanced if it should be ultimately determined that such Person is not entitled to be indemnified under this Article VII or otherwise.

ARTICLE VIII **ACTION BY CONSENT**

Except as provided in any Preferred Stock Designation with respect to one or more series of Preferred Stock, after the Corporation first has a class of securities registered under Section 12(g) of the Securities Exchange Act of 1934, as amended, or its equivalent, any action required or permitted to be taken by the stockholders of the Corporation must be taken at a duly called annual or special meeting of the stockholders and may not be taken by consent in writing or otherwise.

ARTICLE IX **STOCKHOLDER MEETINGS**

Except as otherwise required by law or provided in the Bylaws, and subject to the rights of the holders of any class or series of shares issued by the Corporation having a preference over the Common Stock as to dividends or upon liquidation to elect directors in certain circumstances, special meetings of the stockholders of the Corporation may be called only by the Board pursuant to a resolution approved by the affirmative vote of a majority of the directors then in office.

ARTICLE X **ELECTIONS**

Election of directors need not be by written ballot unless so provided in the Bylaws.

ARTICLE XI **BYLAWS**

Subject to Section 5.2 hereof and to the provisions of the Bylaws, the Board shall have the power to adopt, alter, amend or repeal the Bylaws by vote of not less than a majority of the directors then in office. The holders of shares of Common Stock shall also have the power to adopt, alter, amend or repeal the Bylaws, but only if such action receives the affirmative vote of the holders of at least 66-2/3 percent of the outstanding Common Stock.

ARTICLE XII **AMENDMENT OF CERTIFICATE**

Notwithstanding anything to the contrary in this Certificate and in addition to the vote required by the Board as set forth in Section 5.2 hereof, the affirmative vote of the holders of at least a majority of the outstanding Common Stock shall be required to amend this Certificate (in any such case including, without limitation, by merger, consolidation, binding share exchange or otherwise).

ARTICLE XIII
EXISTENCE

The term of the existence of the Corporation shall be perpetual.

ARTICLE XIV
CORPORATE OPPORTUNITIES

The Corporation renounces any interest or expectancy in, or in being offered the opportunity to participate in, business opportunities that are presented to the Corporation, the LLC or to one or more of the officers, directors or stockholders (both direct and indirect) of the Corporation and members of the LLC that relate to the provision of services to motion picture theaters, use of theaters for any purpose, sale of advertising and promotional services in and around theaters and any other business related to the motion picture theater business, except services as provided in any ESAs and except as may be offered to an officer of the Corporation in his capacity as an officer of the Corporation, even if the business opportunity is one that the Corporation might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so, and no such person shall be liable to the Corporation or any stockholder of the Corporation (or any Affiliate thereof) for breach of any fiduciary or other duty by reason of the fact that such person pursues or acquires such business opportunity, directs such business opportunity to another person or fails to present such business opportunity, or information regarding such business opportunity, to the Corporation.

ARTICLE XV
NON-ASSESSABLE

The capital stock of the Corporation shall not be assessable. It shall be issued as fully paid, and the private property of the stockholders shall not be liable for the debts, obligations or liabilities of this Corporation. This Certificate shall not be subject to amendment in this respect.

ARTICLE XVI
SECTION 203

The Corporation hereby elects not to be governed by Section 203 of the DGCL, and the restrictions contained in Section 203 shall not apply to the Corporation.

ARTICLE XVII
DEFINITIONS

For purposes of this Certificate the following terms shall have the meaning set forth below.

“Affiliate” means with respect to any Person, any Person that directly or indirectly, through one or more intermediaries Controls, is Controlled by or is under common Control with such Person. Notwithstanding the foregoing, (i) no Founding Member shall be deemed an Affiliate of the Corporation, (ii) the Corporation shall not be deemed an Affiliate of any Founding Member, (iii) no stockholder of Cineworld, or any of such stockholder’s Affiliates (other than Cineworld and its Subsidiaries) shall be deemed an Affiliate of any Founding Member or the Corporation, (iv) no stockholder of Dalian Wanda Group, or any of such stockholder’s Affiliates (other than Dalian Wanda Group and its Subsidiaries) shall be deemed an Affiliate of any Founding Member or the Corporation, (v) no stockholder of Cinemark, or any of such stockholder’s Affiliates (other than Cinemark and its Subsidiaries) shall be deemed an Affiliate of any Founding Member or the Corporation, (vi) no stockholder of the Corporation shall be deemed an Affiliate of the Corporation, and (vii) the Corporation shall not be deemed an Affiliate of any stockholder of the Corporation.

“AMC” means American Multi-Cinema, Inc., a Missouri corporation, including any Affiliate or Permitted Transferee thereof, so long as any Permitted Transferee continues to qualify as a Permitted Transferee.

“Board” has the meaning set forth in Section 5.1(a).

“Business Day” means a day other than a Saturday, Sunday, federal holiday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“Bylaws” means the bylaws of the Corporation, as they may be amended, supplemented or otherwise modified from time to time.

“Cash Settlement” has the meaning set forth in Section 4.3(b).

“Certificate” has the meaning set forth in the introductory paragraph.

“Change of Control” with respect to any Person that is not an individual, means (i) any merger or consolidation with or into any other entity or any other similar transaction, whether in a single transaction or series of related transactions, where (A) the members or stockholders of such Person immediately prior to such transaction in the aggregate cease to own at least 50 percent of the general voting power of the entity surviving or resulting from such transaction (or its stockholders or the Ultimate Parent thereof) or (B) any Person or Group becomes the beneficial owner of more than 50 percent of the general voting power of the entity surviving or resulting from such transaction (or its stockholders or the Ultimate Parent thereof), (ii) any transaction or series of related transactions in which in excess of 50 percent of such Person’s general voting power is Transferred to any other Person or Group or (iii) the sale or Transfer by such Person of all or substantially all of its assets.

“Cinemark” means Cinemark Holdings, Inc. or its successor or any Person that wholly-owns Cinemark Holdings, Inc., directly or indirectly, in the future.

“Cinemark Media” means Cinemark Media, Inc., a Delaware corporation, including any Affiliate or Permitted Transferee thereof, so long as any Permitted Transferee continues to qualify as a Permitted Transferee.

“Cinemark USA” means Cinemark USA, Inc., a Texas corporation.

“Cineworld” means Cineworld Group plc, or its successor or any Person that wholly-owns Cineworld Group plc, directly or indirectly, in the future.

“Common Stock” has the meaning set forth in Section 4.1(a).

“Control” (including the terms “Controlled by” and “under common Control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise.

“Corporation” has the meaning set forth in Article I.

“Dalian Wanda Group” means Dalian Wanda Group Co., Ltd. or its successor or any Person that wholly-owns Dalian Wanda Group Co., Ltd., directly or indirectly, in the future.

“DGCL” has the meaning set forth in introductory paragraph B.

“Director Designation Agreement” means the Director Designation Agreement by and among the Founding Members and the Corporation, as it may be amended, supplemented or otherwise modified from time to time.

“Equity Incentive Plan” means the National CineMedia Inc. 2007 Equity Incentive Plan, as it may be amended, supplemented, or otherwise modified from time to time.

“ESA” means any of the Exhibitor Services Agreements entered into, by and between the LLC and each ESA Party, as each may be amended, supplemented or otherwise modified from time to time.

“ESA Party” means (i) AMC in the case of AMC, (ii) Cinemark USA in the case of Cinemark Media, and (iii) Regal Cinemas in the case of Regal.

“Exchange Date” has the meaning set forth in Section 4.3(a).

“Exchange Price” means the arithmetic average of the volume weighted average prices for a share of the Common Stock on the principal United States securities exchange or automated or electronic quotation system on which the Common Stock trades, as reported by Bloomberg, L.P., or its successor, for each of the three consecutive full Trading Days ending on and including the last full Trading Day immediately prior to the Exchange Date, subject to appropriate and equitable adjustment for any stock splits, reverse splits, stock dividends or similar events affecting the Common Stock. If the Common Stock no longer trades on a securities exchange or automated or electronic quotation system, then a majority of the Independent Directors of the Corporation shall determine the Exchange Price in good faith.

“Exchanged Units” has the meaning set forth in Section 4.3(a).

“Founding Members” means AMC, Cinemark Media and Regal.

“Group” has the meaning set forth in Section 13(d)(3) and Rule 13d-5 of the Securities Exchange Act of 1934, as amended.

“Independent Director” means any director of the Corporation that if the Common Stock is traded on the NASDAQ Stock Market, satisfies the definition of an “independent director” set forth in the applicable rules in the Marketplace Rules of the NASDAQ Stock Market, Inc., as such rules may be amended from time to time, or, if the Common Stock is then traded on a different exchange, such term shall mean any director of the Corporation that satisfies the definition of independent director according to the rules of such exchange.

“LLC” means National CineMedia, LLC, a Delaware limited liability company, or its successor.

“LLC Agreement” means the Third Amended and Restated Limited Liability Company Operating Agreement of National CineMedia, LLC as it may be amended, supplemented, or otherwise modified from time to time.

“Member” means each member of the LLC.

“Membership Interest” means a membership interest in LLC.

“Membership Unit” means an outstanding common membership unit of the LLC.

“Permitted Transferee” means in the case of any Founding Member and any Permitted Transferee of any Founding Member (i) an Affiliate of such Founding Member or Permitted Transferee, or (ii) a non-Affiliate of such Founding Member or Permitted Transferee that is owned more than 50 percent directly or indirectly through one or more entities that are the same entities that own 50 percent or more of the general voting power of the Ultimate Parent of such Founding Member.

“Person” means any individual, corporation, limited liability company, partnership, trust, joint stock company, business trust, unincorporated association, joint venture or other entity or organization of any nature whatsoever.

“Preferred Stock” has the meaning set forth in Section 4.1(b).

“Preferred Stock Designation” has the meaning set forth in Section 4.7.

“Proceeding” has the meaning set forth in Section 7.1.

“Redemption Notice” has the meaning set forth in Section 4.3(a).

“Regal” mean Regal CineMedia Holdings, LLC, a Delaware limited liability company, including any Affiliate or Permitted Transferee thereof, so long as any Permitted Transferee continues to qualify as a Permitted Transferee.

“Regal Cinemas” means Regal Cinemas, Inc., a Tennessee corporation.

“Retraction Notice” has the meaning set forth in Section 4.3(b).

“Rights” means, when used with respect to a specified Person, securities of such Person (which may include equity securities) that (contingently or otherwise) are exercisable, convertible or exchangeable for or into equity securities of such Person (with or without consideration) or that carry any right to subscribe for or acquire equity securities or securities exercisable, convertible or exchangeable for or into equity securities of such Person.

“Settlement Notice” has the meaning set forth in Section 4.3(b).

“Share Settlement” has the meaning set forth in Section 4.3(b).

“Subsidiary” means, with respect to any Person, (i) a corporation a majority of whose capital stock with the general voting power under ordinary circumstances to vote in the election of directors of such corporation (irrespective of whether or not, at the time, any other class or classes of securities shall have, or might have, voting power by reason of the happening of any contingency) is at the time beneficially owned by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries thereof or (ii) any other Person (other than a corporation), including a joint venture, a general or limited partnership or a limited liability company, in which such Person, one or more Subsidiaries thereof or such Person and one or more Subsidiaries thereof, directly or indirectly, at the date of determination thereof, beneficially own at least a majority ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Persons performing such functions) or act as the general partner or managing member of such other Person.

“Trading Day” means a day on which the principal United States securities exchange on which such security is listed or admitted to trading, or any automated or electronic quotation system if such security is only listed or admitted to trading on such automated or electronic quotation system, as applicable, is open for the transaction of business (unless such trading shall have been suspended for the entire day).

“Transfer” (including the term “Transferred”) means, with respect to any Person, directly or indirectly, to sell, transfer, give, exchange, bequest, assign, pledge, encumber, hypothecate or otherwise dispose of, either voluntarily or involuntarily (including (i) except as provided in clause (a) below, the direct or indirect Change of Control of any Founding Member or Permitted Transferee (or any direct or indirect holder of equity in a Founding Member or Permitted Transferee), and (ii) upon the foreclosure under any pledge or hypothecation permitted by clause (b) below that results in a change of title), any capital stock or other equity interest of such Person or other assets beneficially owned by such Person. Notwithstanding the foregoing: (a) the Change of Control of an ESA Party or its stockholders shall not be deemed to be a Transfer hereunder, and (b) a bona fide pledge of Membership Interests or Common Stock by the Corporation or any Founding Member or their Affiliates shall not be deemed to be a Transfer hereunder.

“Ultimate Parent” means (i) Dalian Wanda Group in the case of AMC, (ii) Cinemark in the case of Cinemark Media and (iii) Cineworld in the case of Regal.

“Unit Adjustment Agreement” means the Common Unit Adjustment Agreement as it may be amended, supplemented, or otherwise modified from time to time, by and among the Founding Members, Regal Cinemas, Inc., Cinemark USA, Inc., the Company and the LLC.

IN WITNESS WHEREOF, National CineMedia, Inc. has caused this Certificate to be signed and attested as of the 6th day of July, 2018.

By: /s/ Sarah Kinnick Hilty
Name: Sarah Kinnick Hilty
Title: Senior Vice President, General
Counsel and Secretary

**AMENDED AND RESTATED
BYLAWS
OF
NATIONAL CINEMEDIA, INC.**
As amended July 6, 2018

**INDEX TO AMENDED AND RESTATED BYLAWS
OF
NATIONAL CINEMEDIA, INC.**

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**AMENDED AND RESTATED BYLAWS
OF
NATIONAL CINEMEDIA, INC.**

**ARTICLE I
Offices**

Section 1.01 Business Offices. National CineMedia, Inc. (the “Corporation”) may have such offices, either within or outside Delaware, as the board of directors of the Corporation (the “Board”) may from time to time determine or as the business of the Corporation may require.

Section 1.02 Registered Office. The registered office of the Corporation required by the General Corporation Law of the State of Delaware (the “DGCL”) to be maintained in Delaware shall be as set forth in the certificate of incorporation of the Corporation (the “Certificate of Incorporation”), unless changed as provided by law.

**ARTICLE II
Stockholders**

Section 2.01 Annual Meeting. An annual meeting of the stockholders of the Corporation shall be held on such date as may be determined by the Board, for the purpose of electing directors and for the transaction of such other business as may come before such meeting. If the election of directors of the Corporation shall not be held on the day designated for any such meeting, or at any adjournment thereof, the Board shall cause the election to be held at a meeting of the stockholders of the Corporation as soon thereafter as conveniently may be held. Failure to hold an annual meeting of the stockholders of the Corporation as required by these Bylaws shall not invalidate any action taken by the Board or by the officers of the Corporation.

Section 2.02 Special Meetings. Special meetings of the stockholders of the Corporation, for any purpose or purposes, unless otherwise prescribed by law or the Certificate of Incorporation, may be called only by the Board pursuant to a resolution approved by the affirmative vote of a majority of the directors of the Corporation then in office. Such resolution of the Board shall state the purpose or purposes of such proposed meeting. Business transacted at any special meetings of the stockholders shall be limited to the purpose or purposes stated in the notice.

Section 2.03 Place of Meeting. Each meeting of the stockholders of the Corporation shall be held at such place, either within or outside Delaware, as may be designated in the notice of such meeting, or, if no place is designated in such notice, at the principal office of the Corporation. The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any time, but may instead be held solely by means of remote communications in accordance with the DGCL.

Section 2.04 Notice of Meetings. Except as otherwise required herein, by the Certificate of Incorporation or by law and whenever stockholders are required or permitted to take any action at a meeting, notice in writing or by electronic transmission of each meeting of the stockholders of the Corporation stating the place, if any, day and hour of such meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting and, in the case of a special meeting of the stockholders of the Corporation, the purpose or purposes for which such meeting is called, shall be given, either personally (including delivery by private courier) or by first class, certified or registered mail, or by electronic transmission, to each stockholder of record entitled to notice of such meeting, not less than 10 nor more than 60 days before the date of such

meeting. Such notice shall be deemed to be given, if personally delivered, when delivered to the stockholder, and, if mailed, when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the Corporation, and if by electronic transmission, when posted on an electronic network or directed to the stockholder at an electronic mail address at which the stockholder has consented to receive notice. An affidavit of the secretary or an assistant secretary of the Corporation or of the transfer agent or any other agent of the Corporation that the notice has been given by personal delivery, by mail or by a form of electronic transmission, as applicable, shall, in the absence of fraud, be prima facie evidence of the facts stated therein. If notice of two consecutive annual meetings of the stockholders of the Corporation and all notices of other meetings of the stockholders of the Corporation to any stockholder during the period between such two consecutive annual meetings, or all, and at least two, payments (if sent by first class mail) of dividends or interest on securities of the Corporation during a 12 month period, have been mailed to such person at his address as shown on the records of the Corporation and have been returned undeliverable, the giving of such notice to such person shall not be required until another address for such person is delivered to the Corporation. When a meeting of the stockholders of the Corporation is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At such adjourned meeting the Corporation may transact any business that might have been transacted at the original meeting of the stockholders of the Corporation. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for such adjourned meeting, notice of such adjourned meeting shall be given to each stockholder of record of the Corporation entitled to vote at the meeting in accordance with the foregoing provisions of this Section 2.04.

Section 2.05 Fixing Date for Determination of Stockholders of Record. For the purpose of determining the stockholders of the Corporation entitled to notice of or to vote at any meeting of the stockholders of the Corporation or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of capital stock of the Corporation or for any other lawful action, the Board may fix, in advance, a date as the record date for any such determination of stockholders, which date shall not precede the date upon which the record date is adopted by the Board, and which shall not be more than 60 nor less than 10 days before the date of such meeting, and not more than 60 days prior to any other action. If no record date is fixed then the record date shall be, for determining the stockholders of the Corporation entitled to notice of or to vote at a meeting of such stockholders, the close of business on the day next preceding the day on which notice is given, or, if notice is waived, the close of business on the day next preceding the day on which such meeting is held, or, for determining stockholders of the Corporation for any other purpose, the close of business on the day on which the Board adopts the resolution relating thereto. A determination of the stockholders of record of the Corporation entitled to notice of or to vote at a meeting of such stockholders shall apply to any adjournment of such meeting; *provided, however*, that the Board may fix a new record date for the adjourned meeting.

Section 2.06 Voting List. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare, or cause to be prepared, at least 10 days before every meeting of the stockholders of the Corporation, a complete list of such stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each such stockholder and the number of shares of capital stock of the Corporation registered in the name of each such stockholder. Nothing contained in this Section 2.06 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder of the Corporation, for any purpose germane to such meeting, for a period of at least 10 days prior to such meeting, either (a) on a reasonably accessible electronic network, provided that the information required

to gain access to such list is provided with the notice of such meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. If the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If such meeting is to be held at a place, the list shall also be produced and kept at the time and place of such meeting during the whole time thereof, and may be inspected by any stockholder of the Corporation who is present. If such meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder of the Corporation during the whole time of such meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of such meeting. Except as otherwise provided by law, the list of stockholders shall be the only evidence as to which stockholders are entitled to examine to determine the stockholders entitled to vote in person or by proxy at any meeting of the stockholders.

Section 2.07 Proxies. Each stockholder of the Corporation entitled to vote at a meeting of stockholders of the Corporation may authorize another person or persons to act for him, her or it by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Except as otherwise provided by law, a proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the secretary of the Corporation a revocation of the proxy or a new proxy bearing a later date.

Section 2.08 Quorum and Manner of Acting. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, at a meeting of stockholders of the Corporation, a majority of the combined voting power of the outstanding shares of capital stock of the Corporation entitled to vote at such meeting, represented in person or by proxy, shall constitute a quorum. If a quorum is present, at all meetings of stockholders for the election of directors, the directors of the Corporation will be elected by the plurality of the votes cast by the holders of shares of Common Stock (as defined in the Certificate of Incorporation). Unless otherwise provided by the Certificate of Incorporation, these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation or applicable law or pursuant to any regulation applicable to the Corporation or its securities, if a quorum is present, the affirmative vote of a majority of the votes held by such shares represented at such meeting at which a quorum is present and entitled to vote on the subject matter shall be the act of such stockholders. In the absence of a quorum, a majority of the shares of capital stock of the Corporation so represented may adjourn such meeting from time to time in accordance with Section 2.04, until a quorum shall be present or represented.

Section 2.09 Nominations for the Election of Directors. Except as otherwise provided in the Certificate of Incorporation, nominations for election to the Board must be made by the Board or by a committee appointed by the Board for such purpose or by any stockholder of any outstanding shares of capital stock of the Corporation entitled to vote for the election of directors of the Corporation. Except as otherwise provided in the Certificate of Incorporation, nominations by the stockholders of the Corporation must be preceded by timely notice in writing to the secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting of the stockholders of the Corporation; *provided, however*, that in the event that the date of such meeting is advanced more than 30 days prior to, or delayed by more than 70 days after, the anniversary of the preceding year's annual meeting of the stockholders of the Corporation, a stockholder's notice to be timely must be so delivered not earlier than the close of business on the 120th day prior to such meeting

and not later than the close of business on the later of the 90th day prior to such meeting or the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. For purposes of the first annual meeting of stockholders of the Corporation held following the date of these Bylaws, the first anniversary of such annual meeting shall be deemed to be the third Wednesday of May of the following year. Such stockholder's notice shall set forth:

- (a) as to each person whom the stockholder proposes to nominate as a director:
 - (i) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and
 - (ii) such 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 and the beneficial owner, if any, on whose behalf the nomination is made:
 - (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner,
 - (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner,
 - (iii) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose nomination, and
 - (iv) a representation regarding whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (A) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (B) otherwise to solicit proxies from stockholders in support of such nomination.

The foregoing notice requirements shall be deemed satisfied by a stockholder if the stockholder has notified the Corporation of his or her intention to present a proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may require any proposed director nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

The presiding officer of the annual meeting of the stockholders of the Corporation shall have the authority to determine and declare to such meeting that a nomination not preceded by notification made in accordance with the foregoing procedure shall be disregarded.

Section 2.10 Other Stockholder Proposals. For business other than the nomination for election of directors to the Board to be properly brought before any meeting by a stockholder of the Corporation, such stockholder must have given timely notice thereof in writing to the secretary of the Corporation. To

be timely, a stockholder's notice shall be delivered to the secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting of the stockholders of the Corporation; *provided, however*, that in the event that the date of such meeting is advanced more than 30 days prior to, or delayed by more than 70 days after, the anniversary of the preceding year's annual meeting of the stockholders of the Corporation, a stockholder's notice to be timely must be so delivered not earlier than the close of business on the 120th day prior to such meeting and not later than the close of business on the later of the 90th day prior to such meeting or the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. For purposes of the first annual meeting of stockholders of the Corporation held following the date of these Bylaws, the first anniversary of such annual meeting shall be deemed to be the third Wednesday of May of the following year. Such stockholder's notice shall set forth:

- (a) as to any business that the stockholder proposes to bring before the meeting:
 - (i) a brief description of the business desired to be brought before the meeting,
 - (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these Bylaws, the language of the proposed amendment), and
 - (iii) the reasons for conducting such business at the meeting; and
- (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made:
 - (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner,
 - (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner,
 - (iii) any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made as to each matter such stockholder proposes to bring before such meeting,
 - (iv) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business, and
 - (v) a representation regarding whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (A) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (B) otherwise to solicit proxies from stockholders in support of such proposal.

Section 2.11 Stockholder Action by Written Consent Without a Meeting. Except as provided in any preferred stock designation adopted in accordance with the Certificate of Incorporation and the DGCL (a "Preferred Stock Designation"), after the Corporation first has a class of securities registered under Section 12(g) of the Exchange Act or its equivalent, any action required or permitted to be taken by the

stockholders of the Corporation must be taken at a duly called annual or special meeting of the stockholders and may not be taken by consent in writing or otherwise.

Section 2.12 Conduct of Business. The chairman of each annual and special meeting of stockholders shall be the chairman of the Board or, in the absence (or inability or refusal to act) of the chairman of the Board, the chief executive officer (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the chief executive officer or if the chief executive officer is not a director, the president (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the president or if the president is not a director, such other person as shall be appointed by the Board. The secretary of each annual and special meeting of stockholders shall be the secretary or, in the absence (or inability or refusal to act) of the secretary, an assistant secretary so appointed to act by the chairman of the meeting. In the absence (or inability or refusal to act) of the secretary and all assistant secretaries, the chairman of the meeting may appoint any person to act as secretary of the meeting. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the presiding officer of the meeting. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with these Bylaws or such rules and regulations as adopted by the Board, the presiding officer of the meeting of stockholders shall have the right and authority to convene the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding officer, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the presiding officer of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the presiding officer of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding officer of the meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding officer should so determine, such presiding officer shall so declare to the meeting, and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the presiding officer of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 2.13 Inspector of Elections. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation or otherwise serve the Corporation in other capacities, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the Corporation represented at the meeting in person or by proxy and the validity of proxies and ballots, (iii) count all votes and ballots and report the results, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares

of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

ARTICLE III
Board of Directors

Section 3.01 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board, except as otherwise provided in the DGCL or the Certificate of Incorporation.

Section 3.02 Number, Tenure and Qualifications. The number of directors of the Corporation, other than those who may be elected by the holders of one or more series of preferred stock of the Corporation ("Preferred Stock") voting separately by class or series, shall initially be nine (9). However, in the event that either an Investor Nominee (as such term is defined in the letter agreement, dated June 1, 2018, by and between the Corporation and Standard General L.P. (the "Settlement Agreement")) is not nominated, appointed or elected to the Board under circumstances in which the Corporation is required to nominate or appoint such individual in accordance with the terms of the Settlement Agreement, then the number of directors of the Corporation may be increased only by that number necessary to permit the Investor Nominee(s) to be appointed as directors, and may not be increased to more than nine (9) directors for any other purpose, but in no event shall the number of directors be increased to more than eleven (11). Each director of the Corporation shall hold office until his or her successor shall be qualified and elected, subject, however, to such director's earlier death, resignation, retirement or removal. Any newly created directorship or vacancy shall be filled as set forth in the Certificate of Incorporation. Directors of the Corporation need not be residents of Delaware or stockholders of the Corporation. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director, except as may be provided for in a Preferred Stock Designation with respect to any additional director elected by the holders of the applicable series of Preferred Stock.

Section 3.03 Resignation. Any director of the Corporation may resign at any time by giving notice to the Corporation in writing or by electronic transmission. A director's resignation shall take effect upon receipt or, if a different time of effectiveness is specified therein, at the time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.04 Regular Meetings. Regular meetings of the Board may be held at such time and at such place, if any (either within or outside Delaware), as shall from time to time be determined by the Board.

Section 3.05 Special Meetings. Special meetings of the Board for any purpose or purposes may be called at any time by the chairman of the Board, by the chief executive officer or by a majority of the directors of the Corporation. Any such special meeting may take place at any place either within or outside Delaware.

Section 3.06 Meetings by Telephone. Unless otherwise restricted by the Certificate of Incorporation, the directors of the Corporation may participate in a meeting of the Board by means of conference telephone or other communications equipment by means of which all persons participating in such meeting can hear each other, and such participation in such meeting in such manner shall constitute presence in person at such meeting.

Section 3.07 Notice of Meetings. Notice of each meeting of the Board (except those regular meetings for which notice is not required) stating the place, if any, day and hour of such meeting shall be given to each director of the Corporation at least two days prior thereto by the mailing of written notice by first class, certified or registered mail, or at least one day prior thereto by personal delivery (including delivery by private courier) of written notice or by telephone, telegram, telex, cablegram, electronic transmission (including email) or other similar method, except that in the case of a meeting of the Board to be held pursuant to Section 3.06 notice may be given by telephone at any time prior thereto. The method of notice need not be the same to each director of the Corporation. Notice shall be deemed to be given when deposited in the United States mail, with postage thereon prepaid, addressed to such director at his business or residence address, when delivered or communicated to such director or when the telegram, telex, cablegram, electronic transmission (including email) or other form of notice is personally delivered to such director or delivered to the last address of such director furnished by him to the Corporation for such purpose. Notice may be waived pursuant to Section 7.02 hereof. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting.

Section 3.08 Quorum and Manner of Acting. Except as otherwise may be required by law, the Certificate of Incorporation or these Bylaws, a majority of the number of directors of the Corporation fixed in accordance with these Bylaws, present at the meeting, shall constitute a quorum for the transaction of business at any meeting of the Board, and the vote of a majority of the directors of the Corporation present at a meeting of the Board at which a quorum is present shall be the act of the Board. If less than a quorum is present at a meeting of the Board, the directors of the Corporation present may adjourn such meeting from time to time without further notice other than announcement at such meeting, until a quorum shall be present. Subject to the terms of the Certificate of Incorporation, a meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 3.09 Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, without prior notice and without a vote, if all members of the Board or committee thereof entitled to vote thereon, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of the Board or committee thereof, as the case may be.

Section 3.10 Executive and Other Committees. The Board may designate by resolution one or more committees of the Board, each committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any such committee, who may replace any absent or disqualified member at any meeting of such committee, and may dissolve any such committee. In the absence or disqualification of a member of a committee of the Board, the member or members present at any meeting of such committee of the Board and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Except as otherwise provided in the charter of such committee or as otherwise required by the corporation governance rules and listing standards of any national securities exchange or automated quotation system upon which the Corporation's securities are then listed, any such committee shall present its findings and recommendations to the Board, as set forth in the applicable Board resolution. The Board shall delegate certain of its powers and authority to any such committee as set forth in the charters of such committee or by resolution of the Board in the Board's discretion or as otherwise required by the corporation governance rules and listing standards of any national securities exchange or automated quotation system

upon which the Corporation's securities are then listed. To the extent the Board does not establish other procedures, and subject to the immediately preceding sentence, each such committee shall be governed by the procedures set forth in Sections 3.04 (except as they relate to an annual meeting), 3.05 through 3.09, 7.01 and 7.02 as if such committee were the Board. Each such committee shall keep regular minutes of its meetings, which shall be reported to the Board when required and submitted to the secretary of the Corporation for inclusion in the corporate records of the Corporation.

Section 3.11 Compensation. Unless otherwise restricted by the Certificate of Incorporation, the Board shall have the authority to fix the compensation of directors of the Corporation. Such directors may be paid their expenses, if any, of attendance at each meeting of the Board and each meeting of any committee of the Board of which he or she is a member and may be paid a fixed sum for attendance at each such meeting or a stated salary or both a fixed sum and a stated salary. No such payment shall preclude any such director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 3.12 Removal of Directors; Vacancies. The removal of directors of the Corporation and the filling of vacancies on the Board shall be as provided in the Certificate of Incorporation.

ARTICLE IV Officers

Section 4.01 Number and Qualifications. The officers of the Corporation shall consist of a chairman of the Board, a chief executive officer, a president, a chief operating officer, a chief financial officer, a secretary and such other officers, including a vice-chairman or vice-chairmen of the Board, one or more vice-presidents, a treasurer and a controller, as may from time to time be elected or appointed by the Board. In addition, the Board or the chief executive officer of the Corporation may elect or appoint such assistant and other subordinate officers, including assistant vice-presidents, assistant secretaries and assistant treasurers, as it or he shall deem necessary or appropriate. Any number of offices of the Corporation may be held by the same person, except that no person may simultaneously hold the offices of president and secretary of the Corporation.

Section 4.02 Election and Term of Office. Except as provided in the Certificate of Incorporation and Sections 4.01 and 4.06 of these Bylaws, the officers of the Corporation shall be elected by the Board. If such election shall not be held as provided herein, such election shall be held as soon thereafter as may be convenient. Each officer of the Corporation shall hold office until his or her successor shall be elected and shall qualify or until the expiration of his or her term in office if elected or appointed for a specified period of time, subject, however, to prior death, resignation, retirement or removal.

Section 4.03 Compensation. Officers of the Corporation shall receive such compensation for their services as may be authorized or ratified by the Board or a compensation committee of the Board, and no such officer shall be prevented from receiving compensation by reason of the fact that he or she is also a director of the Corporation. Election or appointment as an officer of the Corporation shall not of itself create a contract or other right to compensation for services performed by such officer.

Section 4.04 Resignation. Any officer of the Corporation may resign at any time, subject to any rights or obligations under any existing contracts between such officer and the Corporation, by giving notice to the Corporation in writing or by electronic transmission. Such officer's resignation shall take effect upon receipt or, if a different time of effectiveness is specified therein, at the time stated therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.05 Removal. Unless otherwise provided in the Certificate of Incorporation, any officer of the Corporation may be removed with or without cause at any time by the Board, or, in the case of assistant and other subordinate officers of the Corporation, by the chief executive officer of the Corporation, whenever in its, his or her judgment, as the case may be, the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer of the Corporation shall not in itself create contract rights.

Section 4.06 Vacancies. Except as otherwise provided in the Certificate of Incorporation, a vacancy occurring in any office of the Corporation by death, resignation, retirement, removal or otherwise may be filled by the Board.

Section 4.07 Authority and Duties. The officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the chief executive officer of the Corporation, the Board or these Bylaws (and in all cases where the duties of any officer of the Corporation are not prescribed by these Bylaws or the Board, such officer shall follow the orders and instructions of the chief executive officer of the Corporation), except that in any event each such officer shall exercise such powers and perform such duties as may be required by law:

(a) Chairman of the Board. The chairman of the Board of the Corporation, who shall be elected from among the directors of the Corporation, shall preside, when present, at all meetings of the Corporation's stockholders and the Board and perform such other duties as may be assigned to him or her from time to time by the Board.

(b) Chief Executive Officer. The chief executive officer of the Corporation shall, subject to the direction and supervision of the Board, (i) have general and active control of the affairs of the Corporation and general supervision of its officers, agents and employees; (ii) in the absence of the chairman of the Board of the Corporation, preside, when present, at all meetings of the Corporation's stockholders and the Board; (iii) see that all orders and resolutions of the Board are carried into effect; and (iv) perform all other duties incident to the office of chief executive officer and as from time to time may be assigned to him or her by the Board.

(c) President. The president of the Corporation shall, subject to the direction and supervision of the Board, perform all duties incident to the office of president and as from time to time may be assigned to him by the Board. At the request of the chief executive officer of the Corporation or in his or her absence or in the event of his or her inability or refusal to act, the president of the Corporation shall perform the duties of the chief executive officer of the Corporation, and when so acting shall have all the powers and be subject to all the restrictions of the chief executive officer of the Corporation.

(d) Chief Operating Officer. The chief operating officer of the Corporation shall, subject to the direction and supervision of the Board, supervise the day to day operations of the Corporation and perform all other duties incident to the office of chief operating officer as from time to time may be assigned to him or her by the chairman of the Board of the Corporation, the Board or the chief executive officer of the Corporation. At the request of the president of the Corporation, or in his or her absence or inability or refusal to act, the chief operating officer of the Corporation shall perform the duties of the president of the Corporation, and when so acting shall have all the power of and be subject to all the restrictions upon the president of the Corporation.

(e) Chief Financial Officer. The chief financial officer of the Corporation shall: (i) be the principal financial officer and treasurer of the Corporation and have the care and custody of all funds, securities,

evidences of indebtedness and other personal property of the Corporation and deposit the same in accordance with the instructions of the Board; (ii) receive and give receipts and acquittances for moneys paid in on account of the Corporation, and pay out of the funds on hand all bills, payrolls and other just debts of the Corporation of whatever nature upon maturity; (iii) unless there is a controller of the Corporation, be the principal accounting officer of the Corporation and as such prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account, prepare and file all local, state and federal tax returns, prescribe and maintain an adequate system of internal audit and prepare and furnish to the chief executive officer of the Corporation and the Board statements of account showing the financial position of the Corporation and the results of its operations; (iv) upon request of the Board, make such reports to it as may be required at any time; and (v) perform all other duties incident to the office of chief financial officer and treasurer and such other duties as from time to time may be assigned to him or her by the Board or by the chief executive officer of the Corporation. Assistant treasurers of the Corporation, if any, shall have the same powers and duties, subject to the supervision by the chief financial officer of the Corporation. If there is no chief financial officer of the Corporation, these duties shall be performed by the secretary or chief executive officer of the Corporation or other person appointed by the Board.

(f) Vice-Presidents. The vice-president of the Corporation, if any (or if there is more than one then each such vice-president), shall assist the chief executive officer of the Corporation and shall perform such duties as may be assigned to him or her by the chief executive officer of the Corporation or the Board. Assistant vice-presidents of the Corporation, if any, shall have such powers and perform such duties as may be assigned to them by the chief executive officer of the Corporation or by the Board.

(g) Secretary. The secretary of the Corporation shall: (i) keep the minutes of the proceedings of the stockholders of the Corporation, the Board and any committees of the Board; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be custodian of the corporate records and seal of the Corporation; (iv) keep at the Corporation's registered office or principal place of business within or outside Delaware a record containing the names and addresses of all stockholders of the Corporation and the number and class of shares held by each, unless such a record shall be kept at the office of the Corporation's transfer agent or registrar; (v) have general charge of the stock books of the Corporation, unless the Corporation has a transfer agent; and (vi) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him or her by the chief executive officer of the Corporation or the Board. Assistant secretaries of the Corporation, if any, shall have the same duties and powers, subject to supervision by the secretary of the Corporation.

Section 4.08 Surety Bonds. The Board may require any officer or agent of the Corporation to execute to the Corporation a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his or her duties and for the restoration to the Corporation of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

ARTICLE V Stock

Section 5.01 Issuance of Shares. Except as otherwise may be provided by law or in the Certificate of Incorporation, the issuance or sale by the Corporation of any shares of its authorized capital stock of any class, including treasury shares, shall be made only upon authorization by the Board. Every issuance of

shares of authorized capital stock of the Corporation shall be recorded on the books of the Corporation maintained for such purpose by or on behalf of the Corporation.

Section 5.02 Transfer of Shares. Upon presentation and surrender to the Corporation or to a transfer agent of the Corporation of a certificate of stock of the Corporation duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, payment of all transfer taxes, if any, and the satisfaction of any other requirements of law, including inquiry into and discharge of any adverse claims of which the Corporation has notice, the Corporation or its transfer agent shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction on the books maintained for such purpose by or on behalf of the Corporation. No transfer of shares of authorized capital stock of the Corporation shall be effective until it has been entered on such books. The Corporation or its transfer agent may require a signature guaranty or other reasonable evidence that any signature is genuine and effective before making any transfer. Transfers of uncertificated shares of authorized capital stock of the Corporation shall be made in accordance with applicable provisions of law.

Section 5.03 Registered Holders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares of authorized capital stock of the Corporation to inspect for any proper purpose the stock ledger and the other books and records, to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of such shares, and shall not be bound to recognize any equitable or other claim to or interest in such shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by applicable law.

Section 5.04 Transfer Agents, Registrars and Paying Agents. The Board may at its discretion appoint one or more transfer agents, registrars and agents for making payment upon any class of stock, bond, debenture or other security of the Corporation. Such agents and registrars may be located either within or outside Delaware. They shall have such rights and duties and shall be entitled to such compensation as may be agreed.

Section 5.05 Lost, Stolen or Destroyed Certificates. Except as provided in this Section 5.05, no new certificate representing shares of the Corporation's authorized capital stock shall be issued to replace a previously issued certificate representing such shares unless the previously issued certificate is surrendered to the Corporation and immediately cancelled. The Corporation may issue a new certificate representing shares of its authorized capital stock or uncertificated shares in the place of any certificate theretofore issued by it that is alleged by a stockholder to have been lost, stolen or destroyed, and the Corporation may require such stockholder, or such stockholder's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

ARTICLE VI Indemnification

Section 6.01 Right to Indemnification. The Corporation shall indemnify and pay the expenses of directors, officers and individuals who have agreed to serve as directors or officers of the Corporation as provided in the Certificate of Incorporation and, if applicable, in any indemnification agreement between the Corporation and such individuals. The Corporation has the right, but not the obligation, to indemnify and pay the expenses of other persons authorized by a majority of the Board as provided in the Certificate of Incorporation.

Section 6.02 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of any of its affiliates or another corporation, partnership, limited liability company, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the DGCL.

ARTICLE VII
Miscellaneous

Section 7.01 Notice by Electronic Transmission. Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the Certificate of Incorporation or these Bylaws, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom such notice is given. Any such consent shall be revocable by such stockholder by written notice to the Corporation.

(a) Any such consent shall be deemed revoked if:

- (i) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent; and
- (ii) such inability becomes known to the secretary or an assistant secretary of the Corporation or to the transfer agent of the Corporation, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting of the stockholders of the Corporation or other action by the Corporation.

(b) Any notice given pursuant to this Section 7.01 shall be deemed given:

- (i) if by facsimile telecommunication, when directed to a number at which the stockholder of the Corporation has consented to receive notice;
- (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder of the Corporation has consented to receive notice;
- (iii) if by a posting on an electronic network together with separate notice to the stockholder of the Corporation of such specific posting, upon the later of such posting and the giving of such separate notice; and
- (iv) if by any other form of electronic transmission, when directed to the stockholder of the Corporation.

An affidavit of the secretary or an assistant secretary of the Corporation or of the transfer agent or other agent of the Corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(c) An “electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed

by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

(d) Notice by a form of electronic transmission shall not apply to Sections 164, 296, 311, 312 or 324 of the DGCL.

Section 7.02 Waivers of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these Bylaws, a written waiver thereof, signed by the person entitled to such notice or a waiver by electronic transmission by the person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting or (in the case of a stockholder of the Corporation) by proxy shall constitute a waiver of notice of such meeting, except when the person attends such meeting for the express purpose of objecting, at the beginning of such meeting, to the transaction of any business because such meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting need be specified in any written waiver of notice or waiver of notice by electronic transmission unless required by these Bylaws to be included in the notice of such meeting.

Section 7.03 Presumption of Assent. A director or stockholder of the Corporation who is present at a meeting of the Board or stockholders of the Corporation at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of such meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of such meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Corporation immediately after the adjournment of such meeting. Such right to dissent shall not apply to a director or stockholder of the Corporation who voted in favor of such action.

Section 7.04 Voting of Securities by the Corporation. Unless otherwise provided by resolution of the Board, on behalf of the Corporation the chairman of the Board, chief executive officer, chief operating officer, chief financial officer, president, secretary, treasurer or any vice-president of the Corporation shall attend in person or by substitute appointed by him or her, or shall execute written instruments appointing a proxy or proxies to represent the Corporation at, all meetings of the stockholders of any other corporation, association or other entity in which the Corporation holds any stock or other securities, and may execute written waivers of notice with respect to any such meetings. At all such meetings and otherwise, the chairman of the Board, chief executive officer, chief operating officer, chief financial officer, president, secretary, treasurer or any vice-president of the Corporation, in person or by substitute or proxy as aforesaid, may vote the stock or other securities so held by the Corporation and may execute written consents and any other instruments with respect to such stock or securities and may exercise any and all rights and powers incident to the ownership of said stock or securities, subject, however, to the instructions, if any, of the Board.

Section 7.05 Authorized Signatories. The Board may authorize any officer or officers of the Corporation, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or restricted to specific instances. Unless so authorized or ratified by the Board or within the agency power of an officer of the Corporation, no officer, agent or employee of the Corporation shall have any power or authority to bind the Corporation by any contract or to pledge its credit or to render it liable for any purpose or for any amount

Section 7.06 Seal. The corporate seal of the Corporation shall be in such form as adopted by the Board, and any officer of the Corporation may, when and as required, affix or impress the seal, or a facsimile thereof, to or on any instrument or document of the Corporation.

Section 7.07 Fiscal Year. The fiscal year of the Corporation shall be as established by resolution of the Board.

Section 7.08 Amendments. These Bylaws may be amended or repealed only in the manner set forth in the Certificate of Incorporation.