

**EARLY COLLEGE SCHOOL**  
**AT**  
**DELAWARE STATE UNIVERSITY, INC.**

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**B Y L A W S**  
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ARTICLE I

OFFICES AND PURPOSE

Section 1. Registered Office. The registered office shall be located at Delaware State University, Administration Building, 1200 N. DuPont Highway, Dover, in the County of Kent, State of Delaware.

Section 2. Other Offices. The Corporation also may have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

Section 3. Purposes. The purposes of the Corporation are to promote charitable and educational activities within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), or the corresponding provision of any subsequent federal tax law, by engaging solely in activities relating to the operation of a public charter middle and high school, known as the Early College School at Delaware State University (the “Charter School”), pursuant to the provisions of Title 14, Delaware Code, Chapter 5. Specifically, the Corporation’s mission shall be to provide highly motivated students with an advanced curriculum such that all students graduate with one to two years of college credits leading to four year college completion. The school shall provide a safe, caring and nurturing environment that develops academic and social skills, and personal character traits, necessary for successful college completion, with a special focus on first generation college attenders.

Section 4. Limitation on Corporate Activities. The Corporation's business and activities shall be limited to the opening and operation of a Charter School under the provisions of Title 14, Delaware Code, Chapter 5, before school programs, after school programs and educationally related programs offered outside the traditional school year.

## ARTICLE II

### MEMBER

Section 1. Members. The Corporation shall be a membership corporation and shall have no authority to issue capital stock. The sole member of the corporation shall be Delaware State University.

Section 2. Voting by the Member. Action taken by Delaware State University as the sole member of the Corporation shall be taken by the University's Board of Trustees or as otherwise authorized or delegated by such Trustees.

## ARTICLE III

### MEETINGS OF MEMBER

Section 1. Place of Meetings. All meetings of the sole Member for the election of directors shall be held at such place as may be fixed from time to time by the Board of Directors, or at such other place either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Meetings of the sole Member for any other purpose may be held at such time and place, within or without the State of Delaware, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2. Annual Meeting. Annual meetings of sole Member shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and

stated in the notice of the meeting, at which meeting it shall elect by a plurality vote a Board of Directors and transact such other business as may properly be brought before the meeting.

Section 3. Notice of Annual Meeting. Notice of the annual meeting stating the place, date, and hour of the meeting shall be given to each Member entitled to vote at such meeting not less than ten nor more than sixty days before the date of the meeting.

Section 4. Special Meetings. Special meetings of the sole Member, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the President of the Corporation, and shall be called by the President or Secretary at the request in writing of a majority of the Board of Directors or at the request in writing of the sole Member. Such request shall state the purpose or purposes of the proposed meeting provided that the sole Member may consider any business that it may determine to consider.

Section 5. Notice of Special Meeting. Notice of a special meeting stating the place, date, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be given no less than 10 days and no more than 20 days in advance.

Section 6. Remote Communication. Notwithstanding anything in these Bylaws to the contrary, the Board of Directors or the sole Member may, in its sole discretion, determine that any meeting of the sole Member shall not be held at a place, but instead shall be held solely by means of remote communications as authorized by this Section 6. If so authorized, and subject to such guidelines and procedures as the Board of Directors or sole Member may adopt, the sole Member and proxyholder may, by means of remote communication:

- (A) participate in a meeting of the sole Member; and

(B) be deemed present in person and vote at a meeting of the sole Member whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (i) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is the sole Member or proxyholder, (ii) the Corporation shall implement reasonable measures to provide the sole Member or proxyholder a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Member, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (iii) if the sole Member or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

Section 7. Quorum. At all meetings of the sole Member, the presence of the sole Member shall constitute a quorum for the transaction of business except as otherwise provided by statute or in the Certificate of Incorporation. The sole Member may adjourn the meeting from time to time, without notice other than announcement at the meeting.

Section 8. Action by Sole Member. The sole Member, whether acting in person or by proxy shall decide any question brought before such meeting, unless the question is one on which, by express provision of the statutes or the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 9. Proxy. At any meeting of the sole Member, the sole Member may vote by proxy. Without limiting the manner in which the sole Member may authorize another person or persons to act for such Member as proxy, the sole Member may authorize another

person or persons to act as such Member's proxy either in a writing executed by such Member or by electronic transmission as permitted by applicable law.

Section 10. Consent. Unless otherwise provided in the Certificate of Incorporation, any action required to be taken at any annual or special meeting of the sole Member of the Corporation, or any action which may be taken at any annual or special meeting of such Member, may be taken without a meeting, without prior notice and without a vote, if a consent in writing setting forth the action so taken shall be signed and dated by the sole Member (or proxyholder for such Member) and delivered to the Corporation as provided by applicable law. An electronic transmission consenting to an action to be taken and transmitted by the sole Member or proxyholder, or by a person or persons authorized to act for such Member or proxyholder, shall be deemed to be written, signed, and dated for the purposes of these Bylaws, provided that any such electronic transmission sets forth or is delivered with information from which the Corporation can determine (A) that the transmission was transmitted by the Member or proxyholder or by a person or persons authorized to act for the Member or proxyholder and (B) the date on which such Member or proxyholder or authorized person or persons transmitted such transmission. Any consent by means of an electronic transmission shall be deemed to have been signed on the date on which such transmission was transmitted. No consent given by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation as provided by applicable law.

#### ARTICLE IV

#### DIRECTORS

Section 1. Number and Election. The Board shall consist of such number of Directors, at least nine (9) but not more than fifteen (15), as may be determined from time to time by resolution of the Board to ensure appropriate oversight of the organization's activities. The directors shall be elected at the annual meeting of the sole Member, upon nomination by the Nominating Committee, except as provided in Section 3 of this Article, and each director elected shall hold office until such director's successor is elected and qualified.

Section 2. Membership. The Board shall consist of at least two (2) persons who are a parent or guardian of a student attending the Charter School and at least one (1) person who is a teacher at the Charter School. Two parent representatives shall be persons nominated by the Charter School's parent teacher organization and shall count against the limit of members provided in Section 1 of this Article. The teacher representative on the Board shall be a teacher nominated by the faculty of the Charter School and shall count against the limit of members provided in Section 1 of this Article. The Principal of the Charter School shall be an *ex officio* non-voting member of the Board and shall not count against the limit of members provided in Section 1 of this Article. A Charter School student nominated by the Principal of the Charter School shall be a non-voting advisory member of the Board and shall not count against the limit of members provided in Section 1 of this Article. Should a person who is a State of Delaware employee, officer, and/or honorary official of the State of Delaware be elected to the Board, that individual will have no fiduciary duties and/or responsibilities to the Charter School as it relates to matters between the Charter School and the State of Delaware and that individual is hereby prohibited from lobbying, advocating, influencing or furthering the mission and goals of the Charter School or otherwise representing the Charter School before any agency or department of the State of Delaware.

Section 3. Term. Directors shall serve a term of three (3) years except in the case of the initial directors who shall be elected for one, two or three year terms in order to create a staggered election system. Each Director, including a Director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and taken office. Terms shall be staggered so that approximately one-third (1/3) of the Board shall stand for nomination and election each year to assure some continuity. Directors shall be limited to three consecutive terms of three years, plus any partial initial term of less than three years that any such director might serve. Notwithstanding the foregoing, (i) the teacher representative on the Board selected pursuant to Section 2 of this Article shall serve a term of one (1) year, shall be limited to three consecutive terms of one year and in no event shall serve in that capacity after that person is no longer a teacher at the Charter School and a Charter School student appointed as an advisory board member shall serve at the pleasure of the Principal.

Section 4. Removal. A director, including a non-voting director, may be removed from office, with or without cause, by the sole Member of the Corporation at any time.

Section 5. Vacancies. Vacancies and newly created directorships resulting from any increase in the authorized number of directors shall be filled by action of the sole Member.

Section 6. General Powers. The business of the Corporation shall be managed by its Board of Directors, which shall have and exercise full power in the management and conduct of the business and affairs of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these bylaws directed or required to be exercised or done by the sole Member; provided, however, that the Board of Directors shall not be authorized to engage in any activity that would cause the Corporation to cease to qualify as an

organization described in Section 501(c)(3) of the Code, or the corresponding provision of any subsequent federal tax law.

Section 7. Compensation. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors but shall not be paid a fixed sum for attendance at any meeting of the Board of Directors or receive a stated salary as director.

Section 8. Founding Board. Notwithstanding the foregoing, the Founding Board of Directors, with the responsibility to organize the Charter School, and obtain its charter from the State Board of Education, shall consist of such persons elected by the Sole Member and who shall serve until the Sole Member elects directors meeting the qualifications of Section 2 above.

## ARTICLE V

### MEETINGS OF DIRECTORS

Section 1. Place of Meetings. The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware.

Section 2. First Meetings. The first meeting of each newly elected Board of Directors shall be held at such time and place as shall be fixed by the vote of the sole Member at the annual meeting and no notice of such meeting to the newly elected directors shall be necessary in order legally to constitute the meeting, provided a quorum be present. In the event of the failure of the sole Member to fix the time or place of such first meeting of the newly elected Board of Directors, or in the event such meeting is not held at the time and place so fixed by the sole Member, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors, or as shall be specified in a written waiver signed by all of the directors.



Section 3. Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and at such place as from time to time shall be determined by the Board.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by the President on one day's notice to each director, either personally or by mail or by electronic transmission. Special meetings shall be called by the President or Secretary in like manner and on like notice on the written request of two directors.

Section 5. Quorum. At all meetings of the Board of Directors, a majority of directors constituting the whole Board of Directors shall constitute a quorum for the transaction of business. Non-voting members shall not be counted for purposes of establishing a quorum. The act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as otherwise may specifically be provided by statute or in the Certificate of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum be present.

Section 6. [Reserved]

Section 7. Teleconference Meetings. Directors, or the members of any committee of the Board of Directors, may participate in any meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating therein can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

Section 8. FOIA Compliance. Notwithstanding anything to the contrary herein, meetings of the Board of Directors, including public notices thereof, and the activities of

the Corporation shall be conducted in accordance with the requirements of the Delaware Freedom of Information Act, Title 29, Delaware Code, Chapter 100.

Section 9. Advisory Board. The Board may appoint an Advisory Board or Boards with such role(s) as the Board may determine.

## ARTICLE VI

### COMMITTEES OF DIRECTORS

Section 1. Standing Committees of the Board.

A. The Board shall establish standing committees of limited scope to advise the Board concerning matters which are within the authority of the Board. Membership on standing committees is limited to Board members and such other appointees as may be appointed by the President and approved by the Board provided that at least a majority of the members of all committees must be members of the Board, except the Executive Committee which shall consist of Board members only, and provided further that any action taken by any committee must be approved by Directors constituting at least a majority of the committee. The standing committees of the Board shall be the Executive, Academic Affairs, Audit, Finance and Facilities, Marketing and Student Recruitment, Personnel, and Nominating. The President shall appoint the Chairs and membership of all standing committees with the approval of the Directors. Matters which may be taken to the Board for action may, where appropriate, be referred to a Board committee by the President in order that the committee may recommend a course of action to the Board. The Principal of the Charter School shall be an *ex officio*, non-voting, member of all Board standing committees.

B. The Executive Committee shall consist of the President, Vice-President, Treasurer and two other directors appointed by the President and approved by the Board. The President of the Board shall be the Chair and shall preside at all meetings of the Executive Committee. A majority of the members shall constitute a quorum for the transaction of business. In any interval between the regular meetings of the Board, the Executive Committee shall have the authority to act on behalf of the Board when a majority of the Executive Committee deems such action necessary for the welfare of the Corporation; provided that the Executive Committee shall not have the power i) to amend the certificate of incorporation; ii) to amend, alter or repeal the Bylaws or adopt new bylaws; iii) to fill vacancies in or remove members of the Board or of any committee appointed by the Board; iv) to adopt a plan of merger or adopt a plan of consolidation with another corporation; v) to authorize the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the Corporation; vi) to authorize the voluntary dissolution of the Corporation or revoke proceedings therefor; vii) to adopt a plan for the distribution of the assets of the Corporation; or viii) to amend, alter or repeal any resolution of the Board which by its terms provides that it shall not be amended, altered or repealed by such committee. The Executive Committee shall report its actions at the next regularly scheduled meeting of the Board. The Executive Committee shall also be responsible for monitoring and evaluating the School's compliance with all laws and regulations as well as the performance of Directors as directors of the corporation.

C. The Academic Affairs Committee shall review and advise the Board with respect to matters pertaining to the Charter School's academic programs and school climate.

D. The Audit Committee shall recommend to the Board the appointment of the Corporation's auditors based on proposals from the administration, receive and review the report

of the Corporation's auditors and seek to ensure the integrity of the audit process. At least a majority of the members of the Audit Committee shall not be members of the Finance and Facilities Committee.

E. The Finance and Facilities Committee shall have responsibility for advising the Board with respect to financial matters and shall serve as the School's Citizen Budget Oversight Committee. It shall also review and recommend action to the Board and/or recommend adoption of policies related to the development of the campus and recommend revisions to the plan as appropriate, long-range plans for physical plant and campus development, property acquisitions and disposals, and all other property matters which might arise. It shall periodically review the adequacy and condition of capital assets, and deal with other capital issues as directed by the Board.

F. The Marketing and Student Recruitment Committee shall review and advise the Board with respect to marketing and student recruitment matters.

G. The Nominating Committee shall be comprised of at least three (3) members of the Board, consisting of the immediate past President of the Board still serving on the Board, plus the current President of the Board and the next most recent past President. If applying these criteria fails to produce a membership of three (3), the Board President will complete the membership selection by appointing the current or a recent former Vice President or another member of the Board. The Nominating Committee shall recommend directors for election at the Annual Meeting of the Sole Member pursuant to Article III, Section 2 and to fill vacancies pursuant to Article IV, Section 5 and shall recommend a slate of officers to be elected pursuant to Article VIII, Section 1. A candidate for office shall not participate in the deliberations by the Nominating Committee for that office.

H. The Personnel Committee shall review and advise the Board with respect to personnel matters.

Section 2. Special Committees of the Board. The Board may establish special committees of limited duration to advise the Board concerning specific matters within the authority of the Board. Membership on special committees is limited to Board members and such other appointees as may be appointed by the President and approved by the Board.

Section 3. Committee Authority. Each committee established by the Board shall have only such authority as shall be assigned to it in these bylaws or by Board delegation subject in all events to the limitations of Section 1, paragraph B of this Article.

Section 4. Minutes. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

## ARTICLE VII

### NOTICES

Section 1. Form of Notice. Whenever, under the provisions of the statutes or the Certificate of Incorporation or these Bylaws, such notice may be given (a) by personal delivery, (b) by mail, addressed to such director or Member, at his or her address as it appears on the records of the Corporation, with postage thereon prepaid, (b) by courier service (including, without limitation, Federal Express), (c) by facsimile telecommunication (directed to the facsimile telecommunication number at which the director or Member has consented to receive notice), (d) by electronic mail (directed to the electronic mail address at which the director or Member has consented to receive notice), or (e) by other form of electronic transmission pursuant to which the director or Member has consented to receive notice. Notice given by mail shall be deemed to be given at the time when the same is deposited in the United States mail.

Notice by courier service shall be deemed to have been given when the same is deposited with such courier service for next business day delivery or delivery within three (3) business days. Notice given by electronic transmission pursuant to this Section 1 shall be deemed to have been given: (1) if by facsimile telecommunication, when directed to a facsimile telecommunication number at which the director or Member has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the director or Member has consented to receive notice; and (3) if by any other form of electronic transmission, when directed to the director or Member. An affidavit of the secretary or an assistant secretary or other officer or agent of the Corporation that the notice has been given by personal delivery, by mail, by courier service, or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes or the Certificate of Incorporation or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, or by electronic transmission (provided that the electronic transmission either sets forth or is submitted with information from which it can be determined that the electronic transmission was authorized by the director(s) or Member entitled to said notice), whether such waiver is given before or after the time of the event for which notice is required to be given, shall be deemed equivalent to such notice.

## ARTICLE VIII

### OFFICERS

Section 1. Officers. The officers of the Corporation shall be chosen by the Board of Directors and shall initially be a President, a Vice President, a Secretary, and a Treasurer. The Board of Directors may appoint such other officers and agents as it shall deem necessary who

shall hold their offices for such terms and exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors. Any number of offices may be held by the same person, unless the Certificate of Incorporation or these bylaws otherwise provides.

Section 2. Compensation. The salaries, if any, of all officers and agents of the Corporation shall be fixed by the Board of Directors.

Section 3. Term, Removal, and Vacancies. The officers of the Corporation shall hold office until their successors are chosen and qualify. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors.

Section 4. President. The President shall be the chief executive officer of the Corporation, shall preside at all meetings of the sole Member and the Board of Directors, shall see that all orders and resolutions of the Board of Directors are carried into effect, and shall perform the duties that usually pertain to this office. When so directed by the Board of Directors, the President shall execute bonds, mortgages, and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law otherwise to be signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation.

Section 5. Vice President. In the absence of the President, or in the event of the inability or refusal of the President to act, the Vice President, or in the event that there be more than one Vice President, the Vice Presidents in the order designated by the Board of Directors (or in the absence of any designation, then in the order of their election) shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon

the President. The Vice Presidents shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 6. Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the sole Member and record all the proceedings of the meetings of the Corporation and of the Board of Directors in a book to be kept for that purpose and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or President, under whose supervision he or she shall be. The Secretary shall have custody of the corporate seal of the Corporation and shall have authority to affix the same to any instrument requiring it and, when so affixed, it may be attested by his or her signature. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by his or her signature.

Section 7. Assistant Secretary. The Assistant Secretary, if any, or if there be more than one, the Assistant Secretaries in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Secretary or in the event of his or her inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe. The Assistant Secretary shall have authority to affix the corporate seal of the Corporation to any instrument requiring it and, when so affixed, it may be attested by his or her signature.

Section 8. Treasurer. The Treasurer shall have the custody of all funds, notes, bonds, and other evidences of property of the Corporation, and shall keep full and accurate accounts



of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The treasurer shall arrange for disbursements of the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Corporation a bond (which shall be renewed every year) in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in his or her possession or under his or her control and belonging to the Corporation. The Treasurer shall supervise the Corporation's timely preparation and filing of financial statements and tax filings.

Section 9. Assistant Treasurer. The Assistant Treasurer, if any, or if there be more than one, the Assistant Treasurers in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Treasurer or in the event of his or her inability or refusal to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

## ARTICLE IX

## INDEMNIFICATION

Section 1. Indemnification. (a) The Corporation shall indemnify, to the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, any person made or threatened to be made a party to, or otherwise involved (including as a witness) in any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (hereinafter, a “Proceeding”), by reason of the fact that such person is or was a director or officer of the Corporation, or, while serving as a director or officer of the Corporation, is or was serving at the request of Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, including service with respect to an employee benefit plan (collectively, “Another Enterprise”).

(b) The Corporation may indemnify, to the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, any person made or threatened to be made a party to, or otherwise involved (including as a witness) in any Proceeding, by reason of the fact that such person is or was an employee or agent of the Corporation, or, while serving as an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise.

Section 2. Advancement of Expenses. (a) With respect to any person made or threatened to be made a party to, or who is otherwise involved (including as a witness) in, any threatened, pending, or completed Proceeding, by reason of the fact that such person is or was a director or officer of the Corporation or, while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, the Corporation shall pay the expenses (including attorneys’ fees) incurred by such person in defending any such Proceeding in advance of its final disposition (hereinafter an

“advancement of expenses”); provided, however, that any advancement of expenses shall be made only upon receipt of an undertaking (hereinafter an “undertaking”) by such person to repay all amounts advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a “Final Adjudication”) that such person is not entitled to be indemnified for such expenses under this Article IX or otherwise.

(b) With respect to any person made or threatened to be made a party to, or who is otherwise involved (including as a witness) in, any Proceeding, by reason of the fact that such person is or was an employee or agent of the Corporation, or, while serving as an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, the Corporation may, in its discretion and upon such terms and conditions, if any, as the Corporation deems appropriate, pay the expenses (including attorneys’ fees) incurred by such person in defending any such Proceeding in advance of its final disposition; provided, however, that any advancement of expenses shall be made only upon receipt of an undertaking by such person to repay all amounts advanced if it shall ultimately be determined by Final Adjudication that such person is not entitled to be indemnified for such expenses under this Article IX or otherwise.

Section 3. Suits Initiated By A Director or Officer. Anything in Section 1(a) or Section 2(a) of this Article IX to the contrary notwithstanding, with respect to a Proceeding initiated against the Corporation by a person who is or was a director or officer of the Corporation (whether such Proceeding is initiated by reason of such person’s capacity as a director or officer, by reason of such person’s capacity as a director, officer, employee, or agent of Another Enterprise, or by reason of any other capacity), the Corporation shall not be required to indemnify such person in connection with such Proceeding or advance the expenses (including attorneys’ fees) incurred

by such person in connection with such Proceeding, unless such Proceeding was authorized in advance by the Board of Directors of the Corporation.

Section 4. Contract Rights. With respect to any person made or threatened to be made a party to, or who is otherwise involved (including as a witness) in any Proceeding, by reason of the fact that such person is or was a director or officer of the Corporation, or, while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, the rights to indemnification and to the advancement of expenses conferred in Sections 1(a) and 2(a) of this Article IX shall be contract rights.

Section 5. Suits Seeking Enforcement of Claims. If an officer or director of the Corporation (or a person serving at the request of the Corporation as a director or officer of Another Enterprise) is successful in whole or in part in any suit brought to enforce a right under Section 1(a) of this Article IX with respect to indemnification or under Section 2(a) of this Article IX with respect to the advancement of expenses, or in any suit brought by the Corporation to recover an advancement of expenses (whether pursuant to the terms of an undertaking or otherwise), the person seeking to enforce a right to indemnification or an advancement of expenses hereunder or the person from whom the Corporation sought to recover an advancement of expenses, as the case may be, shall be entitled to be paid by the Corporation the reasonable expenses (including attorneys' fees) of prosecuting or defending such suit.

Section 6. Non-Exclusive Rights. The indemnification and advancement of expenses provided in this Article IX shall not be deemed exclusive of any other rights to which any person may be entitled under any bylaw, agreement, vote of the sole Member or disinterested directors, or otherwise, both as to action in such person's official capacity and as to action in

another capacity while holding such office, and shall continue as to a person who has ceased to be such director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such person.

Section 7. 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 Another Enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article IX or otherwise.

Section 7. Code Section 4958. Notwithstanding anything in this Article IX to the contrary, the Corporation shall be authorized to provide indemnification and advancement of expenses to any person who is or was serving as a director, officer, employee, or agent of the Corporation, or to any person who is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise only if and only to the extent that such indemnification or advancement of expenses will not result in the imposition of tax under Code Section 4958.

## ARTICLE X

### GENERAL PROVISIONS

Section 1. Dissolution or Liquidation. In the event of the liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary, involuntary, or by operation of law, the Board of Directors of the Corporation shall, except as otherwise may be provided by law, transfer all of the assets of the Corporation in such manner as the directors, in the exercise

of their discretion, may by a majority vote determine; provided, however, that upon said liquidation, dissolution, or winding up of the affairs of the Corporation, its assets shall be distributed to Delaware State University if it then is an organization described in Section 501(c)(3) of the Code, and provided further that if Delaware State University is not then such an organization, then such transfer shall be to (a) one or more organizations or entities described in Section 501(c)(3) of the Code, or the corresponding provision of any subsequent federal tax law; or (b) the Federal Government or a Delaware or local government for a public purpose; or (c) if pursuant to a decree of a court with jurisdiction, another organization to be used in such manner as in the judgment of such court will best accomplish the general purposes for which the Corporation is herein organized.

Section 2. Annual Statement. The Board of Directors shall present at each annual meeting, and at any special meeting of the sole Member when called for by the sole Member, a full and clear statement of the business and condition of the Corporation.

Section 3. Contracts. The Board of Directors may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

Section 4. Checks. All checks, drafts, or orders for the payment of money, and notes of the Corporation or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or such other person or persons, and in such manner, as the Board of Directors from time to time may determine by resolution. In the absence of such determination by the Board of Directors, such instruments shall be signed by the

Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Corporation.

Section 5. Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select; provided, however, that this Section 5 shall not be construed as allowing the Board of Directors to authorize the retention of any funds in any manner that would prevent the Corporation from continuing to be exempt from federal taxation under Section 501(c)(3) of the Code, or the corresponding provision of any subsequent federal tax law.

Section 6. Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation; provided, however, that this Section 6 shall not be construed as allowing the Board of Directors to accept any gifts in any manner that would prevent the Corporation from continuing to be exempt from federal taxation under Section 501(c)(3) of the Code, or the corresponding provision of any subsequent federal tax law.

Section 7. Fiscal Year. The fiscal year of the Corporation shall end on the last day of June in each year unless the Board of Directors shall determine otherwise.

Section 8. Seal. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization, and the words “Corporate Seal, Delaware”. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 9. Electronic Transmission. For purposes of these Bylaws, “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.

## ARTICLE XI

### AMENDMENTS

Section 1. Amendments. These bylaws may be altered or repealed at any regular meeting of the sole Member or of the Board of Directors, or at any special meeting of the sole Member or of the Board of Directors if notice of such alteration or repeal be contained in the notice of such special meeting; provided, however, that in any event, no such amendment or repeal shall permit the addition or deletion of any provision the inclusion or absence of which, as the case may be, would cause the Corporation to cease to qualify for exemption from taxation under Section 501(c)(3) of the Code, or the corresponding provision of any subsequent federal tax law.

END OF BYLAWS