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

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**FORM 8-K/A  
Amendment No. 1**

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

**Date of Report (Date of earliest event reported): May 29, 2018**

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**MICROSEMI CORPORATION**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction  
of incorporation)

**0-8866**  
(Commission  
File Number)

**95-2110371**  
(IRS Employer  
Identification No.)

**One Enterprise, Aliso Viejo, California**  
(Address of principal executive offices)

**92656**  
(Zip Code)

**Registrant's telephone number, including area code  
(949) 380-6100**

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

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

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.

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## **Explanatory Note**

This Amendment No. 1 on Current Report on Form 8-K/A amends the Current Report on Form 8-K filed by Microsemi Corporation with the Securities and Exchange Commission on May 29, 2018 (the “Original Report”), and is being filed to correct certain minor and inadvertent errors in the Original Report. The full text of the Original Report is amended, restated and superseded by the corrected disclosure in and exhibits to this Amendment, as set forth below.

### **Item 1.02. Termination of a Material Definitive Agreement.**

On May 29, 2018, in connection with the consummation of the Merger (as defined below), all outstanding obligations under the senior secured credit agreement of Microsemi Corporation, a Delaware corporation (the “Company”), dated as of January 15, 2016 (as amended, the “Credit Agreement”), with Morgan Stanley Senior Funding, Inc., as administrative agent and collateral agent, the other agents party thereto and the lenders from time to time party thereto, were repaid and the Credit Agreement was terminated. Credit facilities under the Credit Agreement included a term loan A facility and a revolving facility maturing on January 15, 2021, and a term loan B facility maturing on January 15, 2023. As of May 25, 2018, the aggregate outstanding indebtedness under the Credit Agreement was approximately \$1.742 billion, plus accrued interest.

The foregoing summary of the Credit Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Credit Agreement, a copy of which is included as Exhibit 10.1 to the Company’s Current Report on Form 8-K as filed with the Securities and Exchange Commission (the “Commission”) on January 19, 2016, Exhibit 10.1 and Exhibit 10.2 to the Company’s Current Report on Form 8-K as filed with the Commission on June 30, 2016, Exhibit 10.1 and Exhibit 10.2 to the Company’s Current Report on Form 8-K as filed with the Commission on January 26, 2017, Exhibit 10.1 to the Company’s Current Report on Form 8-K as filed with the Commission on April 27, 2017, Exhibit 10.1 to the Company’s Current Report on Form 8-K as filed with the Commission on May 22, 2017, Exhibit 10.1 to the Company’s Current Report on Form 8-K as filed with the Commission on June 30, 2016, Exhibit 10.1 to the Company’s Current Report on Form 8-K as filed with the Commission on January 26, 2017, and Exhibit 10.1 to the Company’s Current Report on Form 8-K as filed with the Commission on November 27, 2017.

### **Item 2.01. Completion of Acquisition or Disposition of Assets.**

As previously disclosed, on March 1, 2018, the Company, Microchip Technology Incorporated, a Delaware corporation (“Parent”), and Maple Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of Parent (“Merger Subsidiary”), entered into an Agreement and Plan of Merger (the “Merger Agreement”). On May 29, 2018, pursuant to the terms and conditions of the Merger Agreement, Merger Subsidiary was merged with and into the Company (the “Merger”), with the Company surviving as a wholly-owned subsidiary of Parent (the “Surviving Corporation”).

Pursuant to the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each share of common stock, par value \$0.20, of the Company (“Company Stock”) (other than (1) treasury stock held by the Company or shares of Company Stock held by Parent or any subsidiary of the Company or Parent, which will be cancelled without consideration and (2) shares of Company Stock held by stockholders, if any, who properly exercise their appraisal rights under the General Corporation Law of the State of Delaware) outstanding immediately prior to the Merger) was automatically cancelled and converted into the right an amount equal to \$68.78 in cash, without interest (the “Merger Consideration”).

Pursuant to the Merger Agreement, as of the Effective Time:

- (a) each outstanding option to purchase shares of Company Stock (other than options held by individuals subject to China State Administration of Foreign Exchange (“SAFE”) regulations) and stock appreciation right (“SAR”) related to Company Stock, whether vested or unvested, was assumed by Parent and became subject to the same terms and conditions as applied to the related option or SAR immediately prior to the Effective Time, except that (i) the number of shares of Parent’s common stock subject to each assumed option or assumed SAR became equal to the product of the number of shares of Company Stock underlying such assumed option or assumed SAR as of immediately prior to the Effective Time multiplied by the ratio of the Merger Consideration to the average closing sales price per share of Parent’s common stock over the period of ten trading days ending on the last trading day before the closing of the Merger (the “equity award exchange ratio”) and (ii) the per share exercise price of each assumed option or assumed SAR was determined by dividing the per share exercise price of the assumed option or assumed SAR immediately prior to the Effective Time by the equity award exchange ratio;
- (b) each award of time-based vesting stock units with respect to shares of Company Stock (“RSUs”) that was outstanding and vested immediately prior to the Effective Time (including those RSUs that become vested by their terms immediately prior to or as of the Effective Time) was canceled and converted into the right to receive an amount in cash equal to (i) the number of vested RSUs subject to the award multiplied by (ii) the Merger Consideration;

- (c) each award of RSUs that was outstanding and unvested at the Effective Time (other than outstanding and unvested RSUs held by individuals subject to SAFE regulations) was assumed by Parent and converted into a number of restricted stock units with respect to Parent's common stock determined by multiplying the number of unvested RSUs by the equity award exchange ratio;
- (d) each award of performance-based vesting stock units with respect to shares of Company Stock ("PSUs") that was outstanding immediately prior to the Effective Time became vested as to a percentage of the total number of shares of Company Stock subject to such award to be determined prior to the Effective Time by the compensation committee of the Company's board of directors (the "Board") (which percentage was not less than 100% or greater than the maximum possible vesting percentage under the terms of the award) and was canceled and converted into the right to receive an amount in cash equal to (i) the number of vested PSUs subject to the award multiplied by (ii) the Merger Consideration;
- (e) each share of Company Stock awarded pursuant to a Company restricted stock award that was outstanding and unvested as of immediately prior to the Effective Time was cancelled and converted into the right to receive an amount in cash equal to the Merger Consideration, provided that the right of the award holder to receive such cash payment was subject to the same vesting conditions (including any applicable acceleration provisions provided under the terms of the award) as applied to the share of Company Stock to which such payment of the Merger Consideration relates;
- (f) each option to purchase shares of Company Stock held by an individual subject to SAFE regulations that was outstanding and vested at the Effective Time was canceled and converted into the right to receive an amount in cash equal to the product of (i) the excess, if any, of the Merger Consideration over the exercise price per share of such vested option, multiplied by (ii) the number of shares of Company Stock issuable upon the exercise in full of such vested option;
- (g) each option to purchase shares of Company Stock held by an individual subject to SAFE regulations that was outstanding and unvested at the Effective Time was canceled and converted into the right to receive an amount in cash equal to the product of (i) the excess, if any, of the Merger Consideration over the exercise price per share of such unvested option, multiplied by (ii) the number of shares of Company Stock issuable upon the exercise in full of such unvested option; provided that the right of the award holder to receive such cash payment was subject to the same vesting conditions (including any applicable acceleration provisions provided under the terms of the award) as applied to the option to which such payment of the Merger Consideration relates; and
- (h) each award of RSUs that was outstanding and unvested at the Effective Time held by an individual subject to SAFE regulations was canceled and converted into the right to receive an amount in cash equal to the product of (i) the number of vested RSUs subject to the award multiplied by (ii) the Merger Consideration; provided that the right of the award holder to receive such cash payment was subject to the same vesting conditions (including any applicable acceleration provisions provided under the terms of the award) as applied to the RSU to which such payment of the Merger Consideration relates.

The aggregate value of the cash merger consideration paid to former equityholders of the Company by Parent in the Merger at the Effective Time, including for PSUs, vested RSUs and certain vested options, was approximately \$8.2 billion, without giving effect to related transaction fees and expenses.

The foregoing summary description of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the terms of the Merger Agreement, a copy of which was filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on March 2, 2018, which is incorporated herein by reference.

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

On May 29, 2018 in connection with the consummation of the Merger, the Company notified The Nasdaq Stock Market LLC ("Nasdaq") of its intent to remove the shares of Company Stock from listing on Nasdaq and requested that Nasdaq suspend trading of the Company Stock and file a delisting application with the SEC to delist and deregister the shares of Company Stock. The Company expects that, in accordance with the Company's request, Nasdaq will file with the SEC a Notification of Removal from Listing and/or Registration under Section 12(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), on Form 25 to delist and deregister the shares of Company Stock. The Company also expects that trading of the Company Stock will be suspended prior to the start of trading on May 29, 2018.

The Company intends to file with the SEC a certification on Form 15 under the Exchange Act, requesting the deregistration of the shares of Company Stock and the suspension of the Company's reporting obligations under Sections 13 and 15(d) of the Exchange Act.

### **Item 3.03. Material Modification to Rights of Security Holders.**

At the Effective Time, each share of Company Stock outstanding, other than treasury stock held by the Company or shares of Company Stock held by Parent or any subsidiary of the Company or Parent, was cancelled and converted into the right to receive the Merger Consideration.

The information disclosed under Item 2.01, Item 3.01 and Item 5.01 of this Current Report on Form 8-K is incorporated by reference in this Item 3.03.

### **Item 5.01. Changes in Control of Registrant.**

As a result of the consummation of the Merger, on May 29, 2018, a change in control of the Company occurred. As of the Effective Time, the Company became a wholly-owned subsidiary of Parent.

The information disclosed under Item 2.01, Item 3.01, Item 3.03, Item 5.02 and Item 5.03 of this Current Report on Form 8-K is incorporated by reference in this Item 5.01.

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

In accordance with the terms of the Merger Agreement, at the Effective Time, the members of Merger Subsidiary's board of directors immediately prior to the Effective Time, which consisted of Steve Sanghi, Ganesh Moorthy and J. Eric Bjornholt, became the directors of the Surviving Corporation as of immediately after the Effective Time.

In accordance with the terms of the Merger Agreement, at the Effective Time, the executive officers of Merger Subsidiary immediately prior to the Effective Time, which consisted of Steve Sanghi (Chief Executive Officer), Ganesh Moorthy (President), J. Eric Bjornholt (Chief Financial Officer), Kim van Herk (Secretary) and Alan Davis (Assistant Secretary), became the executive officers of the Surviving Corporation as of immediately after the Effective Time.

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

In connection with the consummation of the Merger, the Company's certificate of incorporation and bylaws were amended and restated to be the certificate of incorporation and the bylaws, respectively, of Merger Subsidiary in effect immediately prior to the Effective Time.

The certificate of incorporation and bylaws as so amended and restated are attached hereto as Exhibit 3.1 and Exhibit 3.2, respectively, and are incorporated by reference herein.

### **Item 8.01. Other Events.**

On May 10, 2018, the Company sent a conditional notice of optional redemption to U.S. Bank National Association, as trustee (the "Trustee") for distribution to the holders of Notes, electing to effect an optional redemption of all of the Company's outstanding 9.125% Senior Notes due 2023 (CUSIP No. 595137AB6) (the "Notes"), at a cash redemption price equal to 100% of principal amount plus the Applicable Premium (as defined below), together with any accrued and unpaid interest thereon to the redemption date of June 15, 2018 (such date, the "Redemption Date") (such amount, the "Redemption Amount"). The Applicable Premium with respect to any Note is equal to the excess of (a) the present value on the Redemption Date of (x) 106.844% of the outstanding principal amount of such Note, plus (y) all required scheduled interest payments due on such Note through January 15, 2019 (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points, over (b) the then-outstanding principal amount of such Note. The redemption is subject to the satisfaction of the following conditions precedent (the "Conditions Precedent"): (i) the consummation of the Merger and (ii) the Financing (as such term is defined in the Merger Agreement) being obtained pursuant to the terms of the Merger Agreement. As the Conditions Precedent have been satisfied, from and after the Redemption Date, (i) interest on the Notes will cease to accrue in accordance with the indenture governing the Notes (the "Indenture"), unless the Company defaults in paying the Redemption Amount to the holders of the Notes, and (ii)

the only remaining right of the holders of the Notes will be to receive payment of the Redemption Amount. The notice of optional redemption was sent by the Trustee to the registered holders of the Notes on May 10, 2016 in accordance with the requirements of the Indenture. A copy of the conditional notice of redemption is attached to this Current Report on Form 8-K as Exhibit 99.1 and is incorporated herein by reference.

On May 29, 2018, the Company satisfied and discharged the Indenture in accordance with its terms by depositing an amount with the Trustee sufficient to pay and discharge the Notes (including principal, Applicable Premium, and accrued and unpaid interest to the Redemption Date) in full. Upon the deposit of such money with the Trustee, the Indenture was satisfied and discharged and is of no further force or effect.

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

*(d) Exhibits.*

| <b><u>Exhibit No.</u></b> | <b><u>Description</u></b>   |
|---------------------------|---|
| 2.1                       | <a href="#"><u>Agreement and Plan of Merger, dated as of March 1, 2018, among Microsemi Corporation, Microchip Technology Incorporated, and Maple Acquisition Corporation (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed March 2, 2018)*</u></a> |
| 3.1                       | <a href="#"><u>Amended and Restated Certificate of Incorporation</u></a>  |
| 3.2                       | <a href="#"><u>Amended and Restated Bylaws</u></a>  |
| 99.1                      | <a href="#"><u>Conditional Notice of Redemption, dated May 10, 2018</u></a>   |

\* All schedules to the Merger Agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company hereby agrees to furnish supplementally a copy of any omitted schedule to the SEC upon request.

**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.

MICROSEMI CORPORATION  
(Registrant)

Date: May 29, 2018

By: /s/ J. Eric Bjornholt  
J. Eric Bjornholt  
Chief Financial Officer

AMENDED AND RESTATED CERTIFICATION OF INCORPORATION OF MICROSEMI CORPORATION

ARTICLE I

The name of the corporation (hereinafter called the "Corporation") is Microsemi Corporation.

ARTICLE II

The address of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, City of Wilmington, County of New Castle, 19808, and the name of the registered agent of the Corporation in the State of Delaware at such address is The Prentice-Hall Corporation System, Inc.

ARTICLE III

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

ARTICLE IV

The total number of shares of all classes of stock that the Corporation shall have authority to issue is 1,000 shares of Common Stock having the par value of \$0.001 per share.

ARTICLE V

The number of directors of the Corporation shall be fixed from time to time by resolution of the Board of Directors of the Corporation.

## ARTICLE VI

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

## ARTICLE VII

Unless and except to the extent that the Bylaws of the Corporation so require, the election of directors of the Corporation need not be by written ballot.

## ARTICLE VIII

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit. The limitation of liability provided herein shall continue after a director has ceased to occupy such position as to acts or omissions occurring during such director's term or terms of office.

## ARTICLE XI

Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer, of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the

basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorney's fees, judgments, fines, Employee Retirement Income Security Act of 1974, as amended, excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators: provided, however, that, except as provided in paragraph (b) hereof, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition: provided, however, that, if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers.

If a claim under paragraph (a) of this Section is not paid in full by the Corporation within thirty days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which makes it permissible under the General Corporation Law of the State of Delaware for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

The right to the indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

**AMENDED AND RESTATED  
BYLAWS OF  
MICROSEMI CORPORATION  
Adopted May 29, 2018**

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## BYLAWS

### ARTICLE I — MEETINGS OF STOCKHOLDERS

1.1 **Place of Meetings.** Meetings of stockholders of Microsemi Corporation (the “**Company**”) shall be held at any place, within or outside the State of Delaware, determined by the Company’s board of directors (the “**Board**”). The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the Delaware General Corporation Law (the “**DGCL**”). In the absence of any such designation or determination, stockholders’ meetings shall be held at the Company’s principal executive office.

1.2 **Annual Meeting.** Unless directors are elected by written consent in lieu of an annual meeting as permitted by Section 211(b) of the DGCL, an annual meeting of stockholders shall be held for the election of directors at such date and time as may be designated by resolution of the Board from time to time. Stockholders may, unless the certificate of incorporation otherwise provides, act by written consent to elect directors; *provided, however*, that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action. Any other proper business may be transacted at the annual meeting.

1.3 **Special Meeting.** A special meeting of the stockholders may be called at any time by the Board, Chairperson of the Board, Chief Executive Officer or President (in the absence of a Chief Executive Officer) or by one or more stockholders holding shares in the aggregate entitled to cast not less than 10% of the votes at that meeting.

If any person(s) other than the Board calls a special meeting, the request shall:

- (i) be in writing;
- (ii) specify the time of such meeting and the general nature of the business proposed to be transacted; and

(iii) be delivered personally or sent by registered mail or by facsimile transmission to the Chairperson of the Board, the Chief Executive Officer, the President (in the absence of a Chief Executive Officer) or the Secretary of the Company.

The officer(s) receiving the request shall cause notice to be promptly given to the stockholders entitled to vote at such meeting, in accordance with these bylaws, that a meeting will be held at the time requested by the person or persons calling the meeting. No business may be transacted at such special meeting other than the business specified in such notice to stockholders. Nothing contained in this paragraph of this **section 1.3** shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board may be held.

1.4 **Notice of Stockholders' Meetings.** Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the DGCL, the certificate of incorporation or these bylaws, the written notice of any meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting.

1.5 **Quorum.** Except as otherwise provided by law, the certificate of incorporation or these bylaws, at each meeting of stockholders the presence in person or by proxy of the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of incorporation or these bylaws.

If, however, such quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, in the manner provided in **section 1.6**, until a quorum is present or represented.

1.6 **Adjourned Meeting; Notice.** Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of the adjourned meeting if the time, place, if any, thereof, and 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 adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting in accordance with Section 213(a) of the DGCL and **section 1.10** of these bylaws, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

1.7 **Conduct of Business.** Meetings of stockholders shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by the Chief Executive Officer, or in the absence of the foregoing persons by the President, or in the absence of the foregoing persons by a Vice President, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting. The chairperson of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business, and shall have the power to adjourn the meeting to another place, if any, date or time, whether or not a quorum is present.

1.8 **Voting.** The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of **section 1.10** of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of capital stock held by such stockholder which has voting power upon the matter in question. Voting at meetings of stockholders need not be by written ballot and, unless otherwise required by law, need not be conducted by inspectors of election unless so determined by the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote thereon which are present in person or by proxy at such meeting. If authorized by the Board, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission (as defined in **section 7.2** of these bylaws), *provided* that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder.

Except as otherwise required by law, the certificate of incorporation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise required by law, the certificate of incorporation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or series or classes or series is required, in all matters other than the election of directors, the affirmative vote of the majority of shares of such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series, except as otherwise provided by law, the certificate of incorporation or these bylaws.

1.9 **Stockholder Action by Written Consent Without a Meeting.** Unless otherwise provided in the certificate of incorporation, any action required by the DGCL to be taken at any annual or special meeting of stockholders of a corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Every written consent shall bear the date of signature of each stockholder who signs the consent, and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered in the manner required by Section 228 of the DGCL to the Company, written consents signed by a sufficient number of holders to take action are delivered to the Company by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the Company having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Company's registered office shall be by hand or by certified or registered mail, return receipt requested. Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent will be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made, and, for the purposes of this **section 1.9**, if evidence of such instruction or provision is provided to the Company, such later effective time shall serve as the date of signature. Unless otherwise provided, any such consent shall be revocable prior to its becoming effective.

An electronic transmission (as defined in **section 7.2**) consenting to an action to be taken and transmitted by a stockholder or proxy holder, or by a person or persons authorized to act for a stockholder or proxy holder, shall be deemed to be written, signed and dated for purposes of this section, *provided* that any such electronic transmission sets forth or is delivered with information from which the Company can determine (i) that the electronic transmission was transmitted by the stockholder or proxy holder or by a person or persons authorized to act for the stockholder or proxy holder and (ii) the date on which such stockholder or proxy holder or authorized person or persons transmitted such electronic transmission.

In the event that the Board shall have instructed the officers of the Company to solicit the vote or written consent of the stockholders of the Company, an electronic transmission of a stockholder written consent given pursuant to such solicitation may be delivered to the Secretary or the President of the Company or to a person designated by the Secretary or the President. The Secretary or the President of the Company or a designee of the Secretary or the President shall cause any such written consent by electronic transmission to be reproduced in paper form and inserted into the corporate records.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Company as provided in Section 228 of the DGCL. In the event that the action which is consented to is such as would have required the filing of a certificate under any provision of the DGCL, if such action had been voted on by stockholders at a meeting thereof, the certificate filed under such provision shall state, in lieu of any statement required by such provision concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

**1.10 Record Dates.** In order that the Company may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the provisions of Section 213 of the DGCL and this Section 1.10 at the adjourned meeting.

In order that the Company may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date has been fixed by the Board, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company in accordance with applicable law. If no record date has been fixed by the Board and prior action by the Board is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

In order that the Company may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

1.11 **Proxies.** Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL.

1.12 **List of Stockholders Entitled to Vote.** The officer who has charge of the stock ledger of the Company shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; *provided, however,* if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Company shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten days prior to the meeting: (i) on a reasonably accessible electronic network, *provided* that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Company's principal place of business. In the event that the Company determines to make the list available on an electronic network, the Company may take reasonable steps to ensure that such information is available only to stockholders of the Company. If the meeting is to be held at a place, then a list of stockholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then such list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

## ARTICLE II — DIRECTORS

2.1 **Powers.** The business and affairs of the Company shall be managed by or under the direction of the Board, except as may be otherwise provided in the DGCL or the certificate of incorporation.

2.2 **Number of Directors.** The Board shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of incorporation fixes the number of directors, the number of directors shall be determined from time to time by resolution of the Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

2.3 **Election, Qualification and Term of Office of Directors.** Except as provided in **section 2.4** of these bylaws, and subject to **sections 1.2** and **1.9** of these bylaws, directors shall be elected at each annual meeting of stockholders. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors. Each director shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

2.4 **Resignation and Vacancies.** Any director may resign at any time upon notice given in writing or by electronic transmission to the Company. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in the certificate of incorporation or these bylaws, when one or more directors resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws:

(i) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Company should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the voting stock at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office and until such director's successor is elected and qualified, or until such director's earlier death, resignation or removal.

**2.5 Place of Meetings; Meetings by Telephone.** The Board may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

**2.6 Conduct of Business.** Meetings of the Board shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

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

**2.8 Special Meetings; Notice.** Special meetings of the Board for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, the President, the Secretary or any two directors.

Notice of the time and place of special meetings shall be:

- (i) delivered personally by hand, by courier or by telephone;
- (ii) sent by United States first-class mail, postage prepaid;
- (iii) sent by facsimile;
- (iv) sent by electronic mail; or
- (v) otherwise given by electronic transmission (as defined in **section 7.2**),

directed to each director at that director's address, telephone number, facsimile number, electronic mail address or other contact for notice by electronic transmission, as the case may be, as shown on the Company's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile, (iii) sent by electronic mail or (iv) otherwise given by electronic transmission, it shall be delivered, sent or otherwise directed to each director, as applicable, at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the Company's principal executive office) nor the purpose of the meeting.

**2.9 Quorum; Voting.** At all meetings of the Board, a majority of the total authorized number of directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. 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.

The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the certificate of incorporation or these bylaws.

If the certificate of incorporation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in these bylaws to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

**2.10 Board Action by Written Consent Without a Meeting.** Unless otherwise restricted by the certificate of incorporation or these bylaws, 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 if all members of the Board or committee, 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 proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Any person (whether or not then a director) may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this **section 2.10** at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming effective.

**2.11 Fees and Compensation of Directors.** Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board shall have the authority to fix the compensation of directors.

**2.12 Removal of Directors.** Unless otherwise restricted by statute, the certificate of incorporation or these bylaws, any director or the entire Board may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

### ARTICLE III — COMMITTEES

3.1 **Committees of Directors.** The Board may designate one or more committees, each committee to consist of one or more of the directors of the Company. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting 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. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the Company.

3.2 **Committee Minutes.** Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

3.3 **Meetings and Actions of Committees.** Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

- (i) **section 2.5** (Place of Meetings; Meetings by Telephone);
- (ii) **section 2.7** (Regular Meetings);
- (iii) **section 2.8** (Special Meetings; Notice);
- (iv) **section 2.9** (Quorum; Voting);
- (v) **section 2.10** (Board Action by Written Consent Without a Meeting); and
- (vi) **section 7.5** (Waiver of Notice)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board and its members. *However:*

- (i) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee;
- (ii) special meetings of committees may also be called by resolution of the Board; and
- (iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of incorporation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of incorporation or these bylaws.

3.4 **Subcommittees.** Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

#### ARTICLE IV — OFFICERS

4.1 **Officers.** The officers of the Company shall be a President and a Secretary. The Company may also have, at the discretion of the Board, a Chairperson of the Board, a Vice Chairperson of the Board, a Chief Executive Officer, one or more Vice Presidents, a Chief Financial Officer, a Treasurer, one or more Assistant Treasurers, one or more Assistant Secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

4.2 **Appointment of Officers.** The Board shall appoint the officers of the Company, except such officers as may be appointed in accordance with the provisions of **section 4.3** of these bylaws.

4.3 **Subordinate Officers.** The Board may appoint, or empower the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President, to appoint, such other officers and agents as the business of the Company may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

4.4 **Removal and Resignation of Officers.** Any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving written notice to the Company. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the officer is a party.

4.5 **Vacancies in Offices.** Any vacancy occurring in any office of the Company shall be filled by the Board or as provided in **section 4.3**.

4.6 **Representation of Shares of Other Corporations.** Unless otherwise directed by the Board, the President or any other person authorized by the Board or the President is authorized to vote, represent and exercise on behalf of the Company all rights incident to any and all shares of any other corporation or corporations standing in the name of the Company. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

4.7 **Authority and Duties of Officers.** Except as otherwise provided in these bylaws, the officers of the Company shall have such powers and duties in the management of the Company as may be designated from time to time by the Board and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

## ARTICLE V — INDEMNIFICATION

5.1 **Right to Indemnification.** Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “**proceeding**”), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer, of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Company to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment), against all expense, liability and loss (including attorney’s fees, judgments, fines, Employee Retirement Income Security Act of 1974, as amended, excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in Section 5.2 below, the Company shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the Company the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Company of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The Company may, by action of its Board, provide indemnification to employees and agents of the Company with the same scope and effect as the foregoing indemnification of directors and officers.

5.2 **Right of Claimant to Bring Suit.** If a claim under Section 5.1 is not paid in full by the Company within thirty days after a written claim has been received by the Company, the claimant may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Company) that the claimant has not met the standards of conduct which makes it permissible under the DGCL for the Company to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Company. Neither the failure of the Company (including its Board, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Company (including its Board, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

5.3 **Non-Exclusivity of Rights.** The right to the indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

5.4 **Insurance.** The Company may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Company or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Company would have the power to indemnify such person against such expense, liability or loss under the DGCL.

5.5 **Effect of Repeal or Modification.** The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be eliminated or impaired by an amendment to such provision after the occurrence of the act or omission that is the subject of the proceeding for which indemnification or advancement of expenses is sought.

5.6 **Certain Definitions.** For purposes of this **Article V**, references to the “**Company**” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, nonprofit entity or other enterprise, shall stand in the same position under the provisions of this **Article V** with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

## ARTICLE VI — STOCK

6.1 **Stock Certificates; Partly Paid Shares.** The shares of the Company shall be represented by certificates, *provided* that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Company. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Company by the Chairperson of the Board or Vice-Chairperson of the Board, or the President or a Vice-President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Company representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The Company shall not have power to issue a certificate in bearer form.

The Company may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, or upon the books and records of the Company in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Company shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

6.2 ***Special Designation on Certificates.*** If the Company is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Company shall issue to represent such class or series of stock; *provided* that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Company shall issue to represent such class or series of stock, a statement that the Company will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the Company shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this section 6.2 or Sections 156, 202(a) or 218(a) of the DGCL or with respect to this section 6.2 a statement that the Company will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3 ***Lost Certificates.*** Except as provided in this **Section 6.3**, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Company and cancelled at the same time. The Company may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company 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.

6.4 ***Dividends.*** The Board, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the Company's capital stock. Dividends may be paid in cash, in property, or in shares of the Company's capital stock, subject to the provisions of the certificate of incorporation.

The Board may set apart out of any of the funds of the Company available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

6.5 **Stock Transfer Agreements.** The Company shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Company to restrict the transfer of shares of stock of the Company of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

6.6 **Registered Stockholders.** The Company:

- (i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;
- (ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and
- (iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

6.7 **Transfers.** Transfers of record of shares of stock of the Company shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer.

## ARTICLE VII — MANNER OF GIVING NOTICE AND WAIVER

7.1 **Notice of Stockholder Meetings.** Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the Company's records. An affidavit of the Secretary or an Assistant Secretary of the Company or of the transfer agent or other agent of the Company that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

7.2 **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 Company 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 the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Company. Any such consent shall be deemed revoked if:

- (i) the Company is unable to deliver by electronic transmission two consecutive notices given by the Company in accordance with such consent; and
- (ii) such inability becomes known to the Secretary or an Assistant Secretary of the Company or to the transfer agent, 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 or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

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

An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Company 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.

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.

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

**7.3 Notice to Stockholders Sharing an Address.** Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Company under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the Company. Any stockholder who fails to object in writing to the Company, within 60 days of having been given written notice by the Company of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

**7.4 Notice to Person with Whom Communication is Unlawful.** Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Company is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

7.5 **Waiver of Notice.** Whenever notice is required to be given under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

#### ARTICLE VIII — GENERAL MATTERS

8.1 **Fiscal Year.** The fiscal year of the Company shall be fixed by resolution of the Board and may be changed by the Board.

8.2 **Seal.** The Company may adopt a corporate seal, which shall be in such form as may be approved from time to time by the Board. The Company may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

8.3 **Annual Report.** The Company shall cause an annual report to be sent to the stockholders of the Company to the extent required by applicable law. If and so long as there are fewer than 100 holders of record of the Company's shares, the requirement of sending an annual report to the stockholders of the Company is expressly waived (to the extent permitted under applicable law).

8.4 **Construction; Definitions.** Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

#### ARTICLE IX — AMENDMENTS

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote. However, the Company may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

A bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the Board.

**CONDITIONAL NOTICE OF REDEMPTION**  
**MICROSEMI CORPORATION**  
**9.125% Senior Notes due 2023**  
**CUSIP/ISIN: 595137AB6/US5934GAA9**  
**CUSIP/ISIN: US595137AB69/USU5934GAA95**

**THIS CONDITIONAL NOTICE OF REDEMPTION (the “Notice”) IS HEREBY GIVEN** pursuant to Section 3.03 and Section 3.07(a) of the Senior Notes Indenture, dated as of January 15, 2016 (as amended, supplemented, or otherwise modified, the “**Indenture**”), by and among Microsemi Corporation, as Issuer (“**Microsemi**”), the guarantors party thereto (the “**Guarantors**”) and U.S. Bank National Association, as trustee (the “**Trustee**” and the “**Paying Agent**”), that all of the Company’s outstanding 9.125% Senior Notes due 2023 (the “**Notes**”) have been selected for optional redemption pursuant to Section 3.07(a) of the Indenture on June 15, 2018 (as may be extended from time to time by Microsemi as set forth below, the “**Redemption Date**”) at the redemption price listed below (the “**Redemption Price**”), together with accrued and unpaid interest, if any, to, but excluding, the Redemption Date. This Notice is being delivered in connection with the merger (the “**Merger**”) of Maple Acquisition Corporation, a Delaware corporation (“**Merger Sub**”) and a wholly-owned subsidiary of Microchip Technology Incorporated, a Delaware corporation (“**Parent**”), with and into Microsemi pursuant to that certain Agreement and Plan of Merger, dated as of March 1, 2018, by and among Microsemi, Merger Sub and Parent (as amended, restated, supplemented or otherwise modified from time to time, the “**Merger Agreement**”). Microsemi’s obligation to redeem the Notes on the Redemption Date is conditioned upon (i) the consummation of the Merger and (ii) the Financing (as such term is defined in the Merger Agreement) being obtained pursuant to the terms of the Merger Agreement (the “**Conditions**”). The Redemption Date may, in Microsemi’s sole discretion, be delayed until such time as any or all of the Conditions have been satisfied and Microsemi, may, in its sole discretion, rescind this Notice if (i) Microsemi determines that the Conditions may not be satisfied, (ii) if the Conditions have not been satisfied on or prior to the date that is 60 days after the date of this Notice or (iii) if the Merger Agreement is terminated. The actual effective date of the consummation of the Merger is herein referred to as the “**Effective Date**.”

| <u>*CUSIP/ISIN</u>     | <u>Maturity</u> | <u>Rate</u> | <u>Principal Amount</u> | <u>Redemption Price</u>                              |
|------------------------|-----------------|-------------|-------------------------|--|
| 595137AB6/US595137AB69 | April 15, 2023  | 9.125%      | \$ 279,243,000          | 100% of principal amount plus the Applicable Premium |

The Applicable Premium with respect to any Note is equal to the excess of (a) the present value on the Redemption Date of (x) 106.844% of principal amount, plus (y) all required scheduled interest payments due on the Note through January 15, 2019 (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points, over (b) the then-outstanding principal amount of such Note.

The Notes called for redemption must be surrendered to the Paying Agent in order to collect the Redemption Price. Surrender thereof can be made to the Paying Agent in the following manner:

**If by Hand, Registered or Certified Mail, Overnight Mail or Courier Service:**

U.S. Bank National Association  
Global Corporate Trust Services  
111 Fillmore Avenue E  
St. Paul, MN 55107

Questions regarding the redemption should be directed to the Trustee at (800) 934-6802.

Unless Microsemi defaults in paying the Redemption Price on the Redemption Date or the Conditions are not satisfied and the Notes are not redeemed, interest on the principal amount designated to be redeemed shall cease to accrue on and after the Redemption Date.

**IMPORTANT CONDITIONS**

Notwithstanding any other provision contained herein, pursuant to Section 3.07(d) of the Indenture, Microsemi’s obligation to redeem the Notes on the Redemption Date is subject to and conditioned upon the consummation of the Merger and the obtaining of the Financing. The Redemption Date will not occur until the date of the occurrence of the Conditions. The Redemption Date may, in

Microsemi's sole discretion, be delayed until such time as any or all of the Conditions have been satisfied and Microsemi, may, in its sole discretion, rescind this Notice if (i) Microsemi determines that the Conditions may not be satisfied, (ii) if the Conditions have not been satisfied on or prior to the date that is 60 days after the date of this Notice or (iii) if the Merger Agreement is terminated.

The Conditions are for Microsemi's sole benefit and may be asserted by Microsemi, in its sole discretion, regardless of the circumstances giving rise to such Conditions (including any action or inaction on the part of Microsemi). Microsemi will have the right (but not the obligation) to waive the Conditions and to redeem the Notes. Microsemi also has the right to determine whether or not the Conditions have been satisfied and to terminate this Notice if the Conditions have not been satisfied on or prior to the date that is 60 days after the date of this Notice, if Microsemi determines that the Conditions may not be satisfied, or if the Merger Agreement has been terminated (and Microsemi may give a new notice of redemption in accordance with the Indenture). Microsemi's decision as to whether or not the Conditions have been satisfied will be final and binding, and the Trustee will have no right to disagree with Microsemi's conclusions.

**CONDITIONAL NOTICE OF REDEMPTION  
MICROSEMI CORPORATION  
9.125% Senior Notes due 2023  
CUSIP/ISIN: 595137AB6/US5934GAA9  
CUSIP/ISIN: US595137AB69/USU5934GAA95**

**IMPORTANT NOTICE**

Payments on the Notes in connection with the redemption may be subject to information reporting. In addition, such amounts may be subject to U.S. federal backup withholding tax (currently imposed at a rate of 24%) if a U.S. holder fails to supply an accurate taxpayer identification number or otherwise fails to comply with applicable certification requirements. U.S. holders redeeming Notes pursuant to the redemption should complete an IRS Form W-9 (available on the IRS website at [www.irs.gov](http://www.irs.gov)) and provide it together with the Notes being surrendered. A non-U.S. holder not otherwise subject to U.S. federal income or withholding tax may nonetheless be subject to U.S. federal backup withholding tax with respect to payments on the Notes in connection with the redemption of such Notes, unless the non-U.S. holder provides an applicable IRS Form W-8 (available on the IRS website at [www.irs.gov](http://www.irs.gov)) or otherwise establishes an exemption from backup withholding.

*\* None of the Trustee, Microsemi or the Guarantors shall be held responsible for the selection or use of the CUSIP or ISIN numbers, nor is any representation made as to their correctness or accuracy as listed in the redemption notice or printed in the Notes. It is included solely for convenience of the Holders.*

*Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Indenture.*

**By Microsemi Corporation**

Dated: May 10, 2018