

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

FORM 8-K

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

Date of Report (Date of earliest event reported): August 17, 2009 (August 14, 2009)

**Corrections Corporation of America**

(Exact name of registrant as specified in its charter)

Maryland

(State or Other Jurisdiction of Incorporation)

001-16109

(Commission File Number)

62-1763875

(I.R.S. Employer  
Identification No.)

10 Burton Hills Boulevard, Nashville, Tennessee 37215

(Address of principal executive offices) (Zip Code)

(615) 263-3000

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report)

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

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

**Item 1.01. Entry into a Material Definitive Agreement.**

On August 14, 2009, the Board of Directors of Corrections Corporation of America (the "Company"), acting on the recommendation of the Nominating and Governance Committee of the Board, authorized the execution of an indemnification agreement with each member of the Company's Board of Directors, the President of the Company, each Executive Vice President of the Company, the Company's Controller and the Company's Ethics Officer. The indemnification agreements contractually obligate the Company to indemnify, and advance expenses on behalf of, persons party thereto in connection with claims, suits or proceedings arising as a result of such person's service as a director or officer of the Company, in accordance with the terms of the indemnification agreements.

The foregoing summary of the indemnification agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the indemnification agreement, a copy of which is attached hereto as Exhibit 10.1 and incorporated herein in its entirety by this reference.

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

On August 14, 2009, John D. Ferguson, the Company's Chairman of the Board and Chief Executive Officer, announced that he will retire as Chief Executive Officer effective October 15, 2009. In connection with his retirement as Chief Executive Officer, Mr. Ferguson has delivered written notice, which was acknowledged and agreed to by the Company, of his intent not to extend his employment agreement with the Company. A copy of the notice is attached hereto as Exhibit 10.2 and is incorporated herein by reference. Also on August 14, 2009, the Company's Board of Directors, acting on the recommendation of the Nominating and Governance Committee, appointed Damon T. Hininger, who currently serves as the Company's President and Chief Operating Officer, to succeed Mr. Ferguson as Chief Executive Officer, effective October 15, 2009. In connection with his appointment as Chief Executive Officer of the Company, the Compensation Committee of the Board of Directors approved an increase in Mr. Hininger's base salary to \$600,000 per year, effective October 15, 2009. Mr. Ferguson will remain as Chairman of the Company's Board of Directors and as an active participant during the transition and in his responsibilities with the Board of Directors.

Mr. Hininger, age 39, joined the Company in 1992 and has gained exposure to essentially all aspects of the business throughout his career. Most recently he served as President and Chief Operating Officer; Senior Vice President, Federal Customer Relations; Vice President, Federal Customer Relations; and Vice President, Business Analysis. Mr. Hininger earned a bachelor's degree from Kansas State University and an M.B.A. from the Jack Massey School of Business at Belmont University.

On August 14, 2009, acting on the recommendation of the Nominating and Governance Committee and in accordance the Company's bylaws, the Board of Directors of the Company expanded the size of the Board from thirteen members to fourteen members and appointed Mr. Hininger to serve as a new member of the Board, effective October 15, 2009, until the 2010 Annual Meeting of Stockholders or until his respective successor is elected and qualified.

Also on August 14, 2009, the Compensation Committee of the Board and the full Board of Directors approved an amendment to the Company's 2000 Stock Incentive Plan (the "Plan") to permit a Participant (as defined in the Plan) to transfer nonqualified stock options granted to him or her under the Plan to certain entities in which the Participant, or certain family members of the Participant, collectively hold more than a fifty percent ownership interest. The foregoing summary of the amendment to the Plan does not purport to be complete and is qualified in its entirety by reference to the full text of the

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amendment to the Plan, a copy of which is attached hereto as [Exhibit 10.3](#) and incorporated herein by reference.

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

On August 14, 2009, the Company's Board of Directors, acting on the recommendation of the Nominating and Governance Committee, approved and adopted the Fifth Amended and Restated Bylaws of the Company (the "Amended and Restated Bylaws"). The Amended and Restated Bylaws include amendments that clarify the scope of the rights to indemnification and expense advancement the Company provides to its directors and officers and describe more specifically the obligations of the Company with respect to such rights.

The foregoing summary of the Amended and Restated Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the Company's Fifth Amended and Restated Bylaws, a copy of which is attached hereto as [Exhibit 3.1](#) and incorporated herein by reference.

**Item 8.01. Other Events.**

On August 17, 2009, the Company issued a press release announcing the retirement of John D. Ferguson as Chief Executive Officer and the appointment of Damon T. Hininger as Chief Executive Officer of the Company, each effective on October 15, 2009. A copy of the press release is attached hereto as [Exhibit 99.1](#).

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

(d) *Exhibits.*

- 3.1 Fifth Amended and Restated Bylaws of the Company effective August 14, 2009.
  - 10.1 Form of Indemnification Agreement.
  - 10.2 Notice Letter from John D. Ferguson to the Company.
  - 10.3 Second Amendment to Amended and Restated 2000 Stock Incentive Plan of the Company.
  - 99.1 Press Release dated August 17, 2009.
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**SIGNATURE**

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

Date: August 17, 2009

CORRECTIONS CORPORATION OF AMERICA

By: /s/ Todd J Mullenger

Todd J Mullenger  
Executive Vice President and  
Chief Financial Officer

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## EXHIBIT INDEX

No. Exhibit

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- 99.1 Press Release dated August 17, 2009.

**CORRECTIONS CORPORATION OF AMERICA**  
**FIFTH AMENDED AND RESTATED BYLAWS**

**ARTICLE I**

**OFFICES AND FISCAL AND TAXABLE YEARS**

Section 1. **PRINCIPAL OFFICE**. The principal office of Corrections Corporation of America (the "Corporation") shall be located at such place or places as the Board of Directors may designate.

Section 2. **ADDITIONAL OFFICES**. The Corporation may have additional offices at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

Section 3. **FISCAL AND TAXABLE YEARS**. The fiscal and taxable years of the Corporation shall begin on January 1 and end on December 31.

**ARTICLE II**

**MEETINGS OF STOCKHOLDERS**

Section 1. **PLACE**. All meetings of stockholders shall be held at the principal office of the Corporation or at such other place within the United States as shall be stated in the notice of the meeting.

Section 2. **ANNUAL MEETING**. An annual meeting of the stockholders for the election of Directors and the transaction of any business within the powers of the Corporation shall be held during the month of May of each year at a convenient location and on proper notice, on a date at the time set by the Board of Directors. Failure to hold an annual meeting does not invalidate the Corporation's existence or affect any otherwise valid acts of the Corporation.

Section 3. **SPECIAL MEETINGS**. The President, Chairman of the Board, a majority of the Board of Directors or a committee of the Board of Directors which has been duly designated by the Board of Directors and whose powers and authority, as provided in a resolution of the Board of Directors or these Bylaws, include the power to call such meetings, may call special meetings of the stockholders. The Secretary of the Corporation shall call a special meeting of the stockholders on the written request of stockholders entitled to cast at least a majority of all the votes entitled to be cast at the meeting.

Section 4. **NOTICE**. Not less than ten (10) nor more than ninety (90) days before each meeting of stockholders, the Secretary shall give to each stockholder entitled to vote at such

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meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting written or printed notice stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, either by mail or by presenting it to such stockholder personally or by leaving it at his residence or usual place of business. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at his post office address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 5. SCOPE OF NOTICE. Any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice.

Section 6. ORGANIZATION. At every meeting of the stockholders, the Chairman of the Board, if there be one, shall conduct the meeting or, in the case of vacancy in office or absence of the Chairman of the Board, one of the following officers present shall conduct the meeting in the order stated: the Vice Chairman of the Board, if there be one, the President, the Vice Presidents in their order of rank and seniority and the Secretary, or, in his absence, an assistant secretary, or in the absence of both the Secretary and assistant secretaries, a person appointed by the Chairman shall act as Secretary.

Section 7. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting shall constitute a quorum; but this Section shall not affect any requirement under any statute or the Charter for the vote necessary for the adoption of any measure. If, however, such quorum shall not be present at any meeting of the stockholders, the stockholders entitled to vote at such meeting, present in person or by proxy, shall have the power to adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 8. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a Director. Each share of stock may be voted for as many individuals as there are Directors to be elected and for whose election the share of stock is entitled to be voted. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required herein or by statute or by the Charter. Unless otherwise provided in the Charter, each outstanding share of stock, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of stockholders.

Section 9. PROXIES. A stockholder may vote the shares of stock owned of record by him, either in person or by proxy. Such proxy shall be filed with the Secretary of the

Corporation before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 10. VOTING OF SHARES OF STOCK BY CERTAIN HOLDERS. Shares of stock of the Corporation registered in the name of a corporation, partnership, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, a general partner or director thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such shares of stock pursuant to a bylaw or a resolution of the governing board of such corporation or other entity or agreement of the partners of the partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such shares of stock. Any fiduciary may vote shares of stock registered in his name as such fiduciary, either in person or by proxy.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the stock transfer books, the time after the record date or closing of the stock transfer books within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors consider necessary or desirable. On receipt of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the stockholder of record of the specified shares of stock in place of the stockholder who makes the certification.

Title 3, Subtitle 7 of the Maryland General Corporation Law (the "MGCL"), or any successor statute, shall not apply to any acquisition by any person of shares of stock of the Corporation.

Section 11. INSPECTORS. At any meeting of stockholders, the chairman of the meeting may, or upon the request of any stockholder shall, appoint one or more persons as inspectors for such meeting. Such inspectors shall ascertain and report the number of shares of stock represented at the meeting based upon their determination of the validity and effect of proxies, count all votes, report the results and perform such other acts as are proper to conduct the election and voting with impartiality and fairness to all the stockholders.

Each report of an inspector shall be in writing and signed by him or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares of stock represented at the meeting and the results of the voting shall be prima facie evidence thereof.

Section 12. NOMINATIONS AND STOCKHOLDER BUSINESS.



(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the Corporation's notice of meeting; (ii) by or at the direction of the Board of Directors; or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this Section 12(a), who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(a).

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 12, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the 90th day prior to such annual meeting and not later than the close of business on the later of the 60th day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made. Such stockholder's notice shall set forth: (i) as to each person whom the stockholder proposes to nominate for election or reelection as a Director all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected); (ii) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and of the beneficial owner, if any, on whose behalf the proposal is made; and (iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (y) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (z) the number of each class of shares of stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner.

(3) Notwithstanding anything in the second sentence of paragraph (a)(2) of this Section 12 to the contrary, in the event that the number of Directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for Director or specifying the size of the increased Board of Directors made by the Corporation at least 70 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 12 (a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which Directors are to be elected: (i) pursuant to the Corporation's notice of meeting; (ii) by or at the direction of the Board of Directors; or (iii) provided that the Board of Directors has determined that Directors shall be elected at such special meeting, by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this Section 12(b), who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(b). In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more Directors to the Board of Directors, any such stockholder may nominate a person or persons (as the case may be) for election to such position as specified in the Corporation's notice of meeting, if the stockholder's notice containing the information required by paragraph (a)(2) of this Section 12 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 60th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting.

(c) General.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 12 shall be eligible to serve as Directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 12. The presiding officer of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 12 and, if any proposed nomination or business is not in compliance with this Section 12, to declare that such defective nomination or proposal be disregarded.

(2) For purposes of this Section 12, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 12, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this Section 12, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 12. Nothing in this Section 12 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 13. VOTING BY BALLOT. Voting on any question or in any election may be viva voce unless the presiding officer shall order or any stockholder shall demand that voting be by ballot.

**ARTICLE III**  
**BOARD OF DIRECTORS**

Section 1. GENERAL POWERS; QUALIFICATIONS; DIRECTORS HOLDING OVER. The business and affairs of the Corporation shall be managed under the direction of its Board of Directors. A Director shall be an individual at least 21 years of age who is not under legal disability. Unless otherwise agreed between the Corporation and the Director, each individual Director may engage in other business activities of the type conducted by the Corporation and is not required to present to the Corporation investment opportunities presented to such Director (other than those presented to such Director in his capacity as a Director of the Corporation) even though the investment opportunities may be within the scope of the Corporation's investment policies. In case of failure to elect Directors at an annual meeting of the stockholders, the Directors holding over shall continue to direct the management of the business and affairs of the Corporation until their successors are elected and qualify.

Section 2. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Directors shall be held immediately after and at the same place as the annual meeting of stockholders, with no notice other than this Bylaw provision being necessary. The Directors may provide, by resolution, the time and place, either within or without the State of Maryland, for the holding of regular meetings of the Directors without other notice than such resolution.

Section 3. SPECIAL MEETINGS. Special meetings of the Directors may be called by or at the request of the Chairman of the Board, the Chief Executive Officer or the President or by a majority of the Directors then in office. The person or persons authorized to call special meetings of the Directors may fix any place, either within or without the State of Maryland, as the place for holding any special meeting of the Directors called by them.

Section 4. NOTICE. Notice of any special meeting shall be given by written notice delivered personally or by telephone or by electronic mail or facsimile or by mail (by regular mail or established overnight courier) to each Director at his business or residence address. Personally delivered notices or notices delivered by electronic mail or facsimile shall be given at least two days prior to the meeting. Notice by mail shall be given at least five days prior to the meeting. Telephonic notice shall be given at least 24 hours prior to the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail or with the courier service properly addressed, with postage or mailing expense thereon prepaid. If given by electronic mail, such notice shall be deemed to be given when sent. If given by facsimile, such notice shall be deemed to be given when the Corporation receives confirmation by the sending facsimile machine that the facsimile has been received. Telephone notice shall be deemed given when the Director is personally given such notice in a telephone call to which he is a party.

Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 5. QUORUM. Except as provided in subsection (b) of Section 6, a majority of the entire Board of Directors shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to the Charter or these Bylaws, the vote of a majority of a particular group of Directors is required for action, a quorum must also include a majority of such group.

The Directors present at a meeting which has been duly called and convened may continue to transact business until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum.

Section 6. VOTING.

(a) Except as provided in subsection (b) of this Section 6, the action of the majority of the Board of Directors present at a meeting at which a quorum is present shall be the action of the Directors, unless the concurrence of a greater proportion is required for such action by the Charter, these Bylaws or applicable statute.

(b) Notwithstanding the foregoing, two-thirds (2/3) of the Directors then in office shall be necessary to constitute a quorum to approve the actions set forth below in clauses (1) through (3), and such action shall not be effective unless approved by two-thirds (2/3) of the Directors then in office. Such action includes:

(1) A Change in Control (as hereinafter defined) of the Corporation;

(2) Any amendment to the Charter or these Bylaws; and

(3) Acquisitions, dispositions or financings of assets by the Corporation in excess of 25% of Total Market Capitalization (as hereinafter defined) whether by merger, purchase, sale or otherwise. The value of the assets of the Corporation for the purpose of determining whether such assets constitute in excess of 25% of Total Market Capitalization shall be the book value of such assets as reflected in the Corporation's most recent fiscal year-end consolidation balance sheet at the time the determination is being made or, if materially different and the transaction involves (A) an acquisition or disposition, the amount of the consideration involved in such acquisition or disposition or (B) a financing, the value of assets being financed as reflected in the financing transaction.

For purposes of this Section 6(b):

(A) The term “Change in Control” of the Corporation shall mean any transaction or series of transactions (whether by purchase of existing Common Stock, issuance of Common Stock, merger, consolidation or otherwise) the result of which is that either: (i) any Person or Group becomes the Beneficial Owner, directly or indirectly, of 20% or more of the total voting power in the aggregate of all classes of Capital Stock of the Corporation then outstanding normally entitled to vote in the election of Directors of the Corporation (or any surviving entity); or (ii) the Beneficial Owners of the Capital Stock of the Corporation normally entitled to vote in the election of Directors immediately prior to the transaction beneficially own less than 80% of the total voting power in the aggregate of all classes of Capital Stock of the Corporation then outstanding normally entitled to vote in the election of Directors of the Corporation (or any surviving entity) immediately after such transaction.

(B) The term “Person” as used herein shall have the same meaning as such term has for purposes of Sections 13(d) and 14(d) of the Exchange Act.

(C) The term “Group” as used herein shall have the same meaning as such term has for purposes of Sections 13(d) and 14(d) of the Exchange Act.

(D) The term “Beneficial Owner” as used herein shall have the same meaning as such term has for purposes of Rule 13d-3 promulgated under the Exchange Act, except that a Person shall be deemed to have beneficial ownership of all shares of stock that a Person has the right to acquire, whether or not such right is immediately exercisable.

(E) The term “Total Market Capitalization” shall mean the sum of: (i) the Market Value (as hereinafter defined) of the then outstanding Common Stock and Preferred Stock; and (ii) the total principal amount of indebtedness of the Corporation as reflected in the Corporation’s most recent fiscal year-end consolidation balance sheet existing at the time the Board of Directors would be required to approve a transaction set forth in subparagraph (3) of this Section 6(b).

(G) The term “Market Value” with respect to Common Stock shall mean the average of the daily market price for the ten (10) consecutive trading days immediately prior to the date beginning fifteen (15) days before the Directors would be required to approve a transaction set forth in subparagraph (3) of this Section 6(b). The market price for each such trading date shall be the last reported sales price of such stock reported on the New York Stock Exchange on the trading day immediately preceding the relevant date, or if such stock is not then traded on the New York Stock Exchange, the last reported sales price of such stock on the trading day immediately preceding the relevant date as reported on any exchange or quotation system over which such stock may be traded, or if such stock is not then traded over any exchange or quotation system, then the market price of such stock on the relevant date as determined in good faith by the Board of Directors of the Corporation.

Section 7. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or similar communications equipment if all persons

participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 8. INFORMAL ACTION BY DIRECTORS. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing to such action is signed by each Director and such written consent is filed with the minutes of proceedings of the Board of Directors.

Section 9. VACANCIES. If for any reason any or all of the Directors cease to be Directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining Directors hereunder (even if fewer than three Directors remain). Any vacancy (including a vacancy created by an increase in the number of Directors) shall be filled, at any regular meeting or at any special meeting called for that purpose, by a majority of the Board of Directors. Any individual so elected as a Director shall hold office until the next annual meeting of stockholders and until his successor is elected and qualifies. Notwithstanding the foregoing, the stockholders may elect a successor to fill a vacancy which results from the removal of a Director.

Section 10. COMPENSATION. Directors shall not receive any stated salary for their services as Directors but, by resolution of the Board of Directors, may receive cash compensation or a fixed sum of Common Stock (or options to purchase Common Stock) of the Corporation for any service or activity they performed or engaged in as Directors. By resolution of the Board of Directors, Directors may receive a fee for and may be reimbursed for expenses, if any, in connection with attendance, at each annual, regular or special meeting of the Board of Directors or of any committee thereof; and for their expenses, if any, in connection with each property visit and any other service or activity performed or engaged in as Directors; but nothing herein contained shall be construed to preclude any Directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 11. REMOVAL OF DIRECTORS. The stockholders may, at any time, remove any Director in the manner provided in the Charter.

Section 12. LOSS OF DEPOSITS. No Director shall be liable for any loss which may occur by reason of the failure of the bank, trust company, savings and loan association, or other institution with whom moneys or shares of stock have been deposited.

Section 13 SURETY BONDS. Unless required by law, no Director shall be obligated to give any bond or surety or other security for the performance of any of his duties.

Section 14. NUMBER, TENURE AND QUALIFICATIONS. The number of Directors of the Corporation shall not be less than three (3) nor more than sixteen (16), as determined from time to time by resolution adopted by a majority of the Board of Directors. Directors need not be stockholders of the Corporation.

**ARTICLE IV**

**COMMITTEES OF BOARD OF DIRECTORS**

Section 1. **GENERAL**. The Board of Directors may, by resolution passed by a majority of the whole board, designate one or more committees, each such committee to consist of one or more of the Directors of the Corporation. The Board of Directors 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. Any such committee, to the extent provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to: (i) to authorize dividends on stock; (ii) to authorize the issuance of stock (except that, if the Board of Directors has given general authorization for the issuance of stock providing for or establishing a method or procedure for determining the maximum number of shares to be issued, a committee may, in accordance with the general authorization or any stock option or other plan or program adopted by the Board, authorize or fix the terms of stock subject to classification or reclassification and the terms on which any stock may be issued); (iii) to recommend to the stockholders any action which requires stockholder approval; (iv) to amend the Bylaws; or (v) to approve any merger or share exchange which does not require stockholder approval.

Section 2. **COMMITTEES**. The Board of Directors shall appoint such committees as it may deem advisable and as may be required pursuant to such rules and regulations as are applicable to the Corporation, including, but not limited to, the rules and regulations of the Securities and Exchange Commission and the rules of the New York Stock Exchange (or such other exchange as the Corporation's securities may then be listed), and as are otherwise permitted by law. The specific authority and members of any such committees shall be designated by the resolution of the Board of Directors, provided that the authority granted and the qualifications of members appointed are consistent with and comply with the provisions of all rules and regulations applicable to the Corporation, including, but not limited to, the rules and regulations of the Securities and Exchange Commission and the rules of the New York Stock Exchange (or such other exchange as the Corporation's securities may then be listed).

Section 3. **RECORDS OF COMMITTEE MEETINGS**. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required. The presence of a majority of the total membership of any committee shall constitute a quorum for the transaction of business at any meeting of such committee and the act of a majority of those present shall be necessary and sufficient for the taking of any action at such meeting.

**ARTICLE V**

**OFFICERS**

Section 1. GENERAL PROVISIONS. The officers of the Corporation may consist of a Chairman of the Board, a Vice Chairman of the Board, a Chief Executive Officer, a President, one or more Vice Presidents, a Treasurer, one or more assistant treasurers, a Secretary, and one or more assistant secretaries. In addition, the Board of Directors may from time to time appoint such other officers with such powers and duties as they shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor is elected and qualifies or until his death, resignation or removal in the manner hereinafter provided. Any two or more offices except President and Vice President may be held by the same person. In their discretion, the Board of Directors may leave unfilled any office except that of President, Secretary and Treasurer. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed by the Board of Directors if in their judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by giving written notice of his resignation to the Board of Directors, the Chairman of the Board, the President or the Secretary. Any resignation shall take effect at any time subsequent to the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon its receipt. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHAIRMAN AND VICE CHAIRMAN OF THE BOARD. The Chairman of the Board shall preside over the meetings of the Board of Directors and of the stockholders at which he shall be present and shall in general oversee all of the business and affairs of the Corporation. In the absence of the Chairman of the Board, the Vice Chairman of the Board shall preside at such meetings at which he shall be present. The Chairman and the Vice Chairman of the Board may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed. The Chairman of the Board and the Vice Chairman of the Board shall perform such other duties as may be assigned to him or them by the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a Chief Executive Officer from among the elected officers. The Chief Executive Officer shall have responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the administration of the business affairs of the Corporation. In the



absence of both the Chairman and Vice Chairman of the Board, the Chief Executive Officer shall preside over the meetings of the Board of Directors and of the stockholders at which he shall be present.

Section 6. CHIEF OPERATING OFFICER. The Board of Directors may designate a Chief Operating Officer from among the elected officers. Said officer will have the responsibilities and duties as set forth by the Board of Directors or the Chief Executive Officer.

Section 7. CHIEF DEVELOPMENT OFFICER. The Board of Directors may designate a Chief Development Officer from among the elected officers. Said officer will have the responsibilities and duties as set forth by the Board of Directors or the Chief Executive Officer.

Section 8. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a Chief Financial Officer from among the elected officers. Said officer will have the responsibilities and duties as set forth by the Board of Directors or the Chief Executive Officer.

Section 9. PRESIDENT. In the absence of the Chairman, the Vice Chairman of the Board and the Chief Executive Officer, the President shall preside over the meetings of the Board of Directors and of the stockholders at which he shall be present. In the absence of a designation of a Chief Executive Officer by the Board of Directors, the President shall be the Chief Executive Officer and shall be ex officio a member of all committees that may, from time to time, be constituted by the Board of Directors. The President may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 10. VICE PRESIDENTS. In the absence of the President or in the event of a vacancy in such office, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions upon the President; and shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors. The Board of Directors may designate one or more Vice Presidents as Senior Vice President, Executive Vice President or as Vice President for particular areas of responsibility.

Section 11. SECRETARY. The Secretary shall: (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the Secretary by such stockholder; (e) have

general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to him by the Chief Executive Officer, the President or by the Board of Directors.

Section 12. TREASURER. The Treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors.

The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board of Directors or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Corporation.

If required by the Board of Directors, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, moneys and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 13. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the President or the Board of Directors. The assistant treasurers shall, if required by the Board of Directors, give bonds for the faithful performance of their duties in such sums and with such surety or sureties as shall be satisfactory to the Board of Directors.

Section 14. SALARIES. The salaries of the officers shall be fixed from time to time by the Board of Directors (or a committee thereof), and no officer shall be prevented from receiving such salary by reason of the fact that he is also a Director.

**ARTICLE VI**

**CONTRACTS, LOANS, CHECKS AND DEPOSITS**

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document executed by one or more of the Board of Directors or by an authorized person shall be valid and binding upon the Board of Directors and upon the Corporation when authorized or ratified by action of the Directors.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may designate.

## ARTICLE VII

### STOCK

Section 1. CERTIFICATES. Each stockholder shall be entitled to a certificate or certificates which shall represent and certify the number of shares of each class of stock held by him in the Corporation; provided, however, that the issuance of some or all of any or all classes or series of stock of the Corporation may be uncertificated. To the extent required by the MGCL, holders of uncertificated shares shall be entitled to receive a certificate. Each certificate shall be signed by the President, a Vice President or the Chairman of the Board and countersigned by the Secretary or an assistant secretary or the Treasurer or an assistant treasurer, certifying the number of shares owned by such holder in the Corporation. If such a certificate is countersigned (i) by a transfer agent or an assistant transfer agent other than the Corporation or one of its employees or (ii) by a registrar, other than the Corporation or one of its employees, the signatures of any such President, Vice President, Chairman of the Board, Secretary or assistant secretary, or Treasurer or assistant treasurer may be either manual or facsimile. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. Certificates shall be consecutively numbered; and if the Corporation shall, from time to time, issue several classes of shares of stock, each class may have its own number series. The name of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the books of the Corporation. Shares of the Corporation's stock may also be evidenced by registration in the holder's name in uncertificated book-entry form on the books of the Corporation in accordance with a direct registration system approved by the Securities and Exchange Commission and by the New York Stock Exchange or any securities exchange on which the stock of the Corporation may from time to time be traded. Each certificate shall contain on its face or back a full statement or summary of such information with respect to the stock of the Corporation as is required by the MGCL. In lieu of such statement or summary, the Corporation may set forth upon the face or back of the certificate a statement that the Corporation will furnish to any stockholder, upon request and without charge, a full statement of such information. If required by the MGCL, within a reasonable time after the issuance or transfer of any uncertificated shares, the Corporation shall issue or cause to be issued to the holder of such shares a written statement of the information required by the MGCL to be included on stock certificates.

Section 2. TRANSFERS. Certificates shall be treated as negotiable, and title thereto and to the shares of stock they represent shall be transferred by delivery thereof. No transfers of shares of stock of the Corporation shall be made if: (i) void ab initio pursuant to any provision of the Charter; or (ii) the Board of Directors, pursuant to any provision of the Charter, shall have refused to permit the transfer of such shares of stock. Permitted transfers of shares of stock of the Corporation shall be made on the stock records of the Corporation only upon the instruction of the registered holder thereof, or by his attorney thereunto authorized by power of attorney duly executed and filed with the Secretary or with a transfer agent or transfer clerk, and upon surrender of the certificate or certificates, if issued, for such shares of stock properly endorsed or accompanied by a duly executed stock transfer power and the payment of all taxes thereon. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for

shares of stock duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, as to any transfers not prohibited by any provision of the Charter or by action of the Board of Directors thereunder, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books. Upon receipt of proper transfer instructions from the registered owner of uncertificated shares, such uncertificated shares shall be cancelled, issuance of new equivalent uncertificated shares or certificated shares shall be made to the transferee shareholder entitled thereto, and the transaction shall be recorded upon the books of the Corporation.

Section 3. REPLACEMENT CERTIFICATE. In the event that any certificate previously issued by the Corporation is alleged to have been lost, stolen or destroyed in an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed, then any officer designated by the Board of Directors may, upon payment of any applicable transfer agent fees, (i) direct a new certificate to be issued in place of such lost, stolen or destroyed certificate or (ii) direct the issuance of uncertificated shares in place of the shares represented by such lost, stolen or destroyed certificate. When authorizing the issuance of a new certificate, the officer designated by the Board of Directors may, in his discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or the owner's legal representative to advertise the same in such manner as he shall require and/or to give bond, with sufficient surety, to the Corporation to indemnify it against any loss or claim which may arise as a result of the issuance of a new certificate.

Section 4. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days, and in the case of a meeting of stockholders not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

In lieu of fixing a record date, the Board of Directors may provide that the stock transfer books shall be closed for a stated period but not longer than 20 days. If the stock transfer books are closed for the purpose of determining stockholders entitled to notice of or to vote at a meeting of stockholders, such books shall be closed for at least ten days before the date of such meeting.

If no record date is fixed and the stock transfer books are not closed for the determination of stockholders, (a) the record date for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day on which the notice of meeting is mailed or the 30th day before the meeting, whichever is the closer date to the meeting, and (b) the record date for the determination of stockholders entitled to receive payment of a dividend or an allotment of any other rights shall be the close of business on the

day on which the resolution of the Board of Directors declaring the dividend or allotment of rights is adopted.

When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this section, such determination shall apply to any adjournment thereof, except when: (i) the determination has been made through the closing of the transfer books and the stated period of closing has expired; or (ii) the meeting is adjourned to a date more than 120 days after the record date fixed for the original meeting, in either of which case a new record date shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class of stock held by such stockholder.

Section 6. FRACTIONAL SHARES OF STOCK; ISSUANCE OF UNITS. The Board of Directors may issue fractional shares of stock or provide for the issuance of scrip, all on such terms and under such conditions as they may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may issue units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board of Directors may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

## **ARTICLE VIII**

### **DIVIDENDS AND DISTRIBUTIONS**

Section 1. AUTHORIZATION. Dividends and other distributions upon the shares of stock of the Corporation may be authorized and declared by the Board of Directors, subject to the provisions of law and the Charter. Dividends may be paid in cash, property or shares of stock of the Corporation, subject to the provisions of law and the Charter.

Section 2. CONTINGENCIES. Before payment of any dividends, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors may from time to time, in their absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine to be in the best interest of the Corporation; and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

**ARTICLE IX**

**SEAL**

Section 1. **SEAL**. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall have inscribed thereon the name of the Corporation and the year of its formation. The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. **AFFIXING SEAL**. Whenever the Corporation is required to place its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word “(SEAL)” adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

**ARTICLE X**

**INDEMNIFICATION AND ADVANCES FOR EXPENSES**

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify (a) any Director or officer or any former Director or officer (including among the foregoing, for all purposes of this Article X and without limitation, any individual who, while a Director or officer and at the express request of the Corporation, serves or has served another corporation, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer or partner of such corporation, partnership, joint venture, trust, employee benefit plan or other enterprise) who has been successful, on the merits or otherwise, in the defense of a Proceeding, or in the defense of any claim, issue or matter in the Proceeding, to which he was made a Party by reason of service in such capacity, against reasonable expenses incurred by him in connection with the Proceeding, claim, issue or matter in which he has been successful and (b) any Director or officer or any former Director or officer made a Party or witness to any Proceeding by reason of such status against any loss, liability, judgment, penalty, fine, settlement or expense (including attorneys’ fees) actually incurred by him in connection with the Proceeding unless it is established that: (i) his act or omission was material to the matter giving rise to the Proceeding and was committed in bad faith or was the result of active and deliberate dishonesty; (ii) he actually received an improper personal benefit in money, property or services; or (iii) in the case of a criminal Proceeding, he had reasonable cause to believe that his act or omission was unlawful. In addition, the Corporation shall pay or reimburse, in advance of final disposition of a Proceeding, reasonable expenses incurred by a Director or officer or former Director or officer made a Party or witness to a Proceeding by reason of such status, provided that the Corporation shall have received: (i) a written affirmation by the Director or officer or former Director or officer of his good faith belief that he has met the applicable standard of conduct necessary for indemnification by the Corporation as authorized by these Bylaws; and (ii) a written undertaking (which need not be secured) by or on the Director’s or officer’s or former Director’s or officer’s behalf to repay the amount paid or reimbursed by the Corporation if it shall ultimately be determined that the applicable standard of conduct was not met. The Corporation may, with the approval of its Directors, provide such indemnification or payment or reimbursement of expenses to any Director or officer or any former Director or officer who

served a predecessor of the Corporation and to any employee or agent of the Corporation or a predecessor of the Corporation. Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Charter or these Bylaws inconsistent with this Article, shall apply to or affect in any respect the applicability of this Article with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

Any indemnification permitted by these Bylaws and not mandated by the MGCL, shall be furnished in accordance with the procedures provided for indemnification under Section 2-418(e) of the MGCL for directors of Maryland corporations. The Corporation may provide to Directors or officers such other and further indemnification or payment or reimbursement of expenses, as the case may be, to the fullest extent permitted by the MGCL, as in effect from time to time, for directors of Maryland corporations.

The right to be indemnified or to the reimbursement or advancement of expenses pursuant hereto (i) is a contract right based upon good and valuable consideration, pursuant to which the person entitled thereto may bring suit as if the provisions hereof were set forth in a separate written contract between the Corporation and the Director or officer and (ii) is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof.

If this Article X or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and advance expenses to each Director and officer and former Director and officer hereunder, to the full extent permitted by any applicable portion of this Article X that shall not have been invalidated, or by Maryland law.

In this Article X, the following words have the meanings set forth below.

“Party” includes a person who was, is or is threatened to be made a named defendant or respondent in a Proceeding.

“Proceeding” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

#### **ARTICLE XI**

##### **WAIVER OF NOTICE**

Whenever any notice is required to be given pursuant to the Charter or Bylaws or pursuant to applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any meeting need be set forth in the waiver of notice, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

#### **ARTICLE XII**

##### **AMENDMENT OF BYLAWS**

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws in accordance with Article III hereof.



## INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT (this "Agreement") is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Corrections Corporation of America, a Maryland corporation (the "Company"), and \_\_\_\_\_ ("Indemnitee").

WHEREAS, the Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, to serve as officers and directors of the Company;

WHEREAS, highly qualified individuals have become more reluctant to serve corporations as directors or officers unless they are provided adequate protection through insurance and indemnification against the risks of claims and actions against them arising out of their service to and activities on behalf of such corporations;

WHEREAS, the Board of Directors of the Company (the "Board") has determined that the increased difficulty in attracting and retaining such individuals is detrimental to the best interests of the Company's stockholders and the Company should act to assure such individuals that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company to contractually obligate itself to indemnify, and to advance expenses on behalf of, such individuals to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, at the request of the Company, Indemnitee currently serves as **[a member of the Company's Board of Directors] [and] [an officer of the Company]** and may, therefore, be subjected to claims, suits or proceedings arising as a result of **[his][her]** service;

WHEREAS, as an inducement to Indemnitee to continue to serve as such **[director] [and] [officer]**, the Company has agreed to enter into this Agreement to indemnify and advance expenses and costs incurred by Indemnitee in connection with any claims, suits or proceedings arising as a result of **[his][her]** service, to the maximum extent permitted by law;

WHEREAS, Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that Indemnitee be indemnified on the terms set forth in this Agreement; and

WHEREAS, this Agreement is a supplement to and in furtherance of the provisions of the Company's Bylaws regarding indemnification and advancement of expenses and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of the Indemnitee thereunder.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

**SECTION 1. Definitions.** For the purposes of this Agreement:

(a) "**Change in Control**" shall have the meaning set forth in the Company's 2008 Stock Incentive Plan, as amended from time to time.

(b) "**Corporate Status**" means the status of a person as a present or former director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing

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member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company. As a clarification and without limiting the circumstances in which Indemnitee may be serving at the request of the Company, service by Indemnitee shall be deemed to be at the request of the Company if Indemnitee serves or served as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise of which (i) a majority of the voting power or equity interest is owned directly or indirectly by the Company or (ii) the management is controlled directly or indirectly by the Company.

(c) “**Disinterested Director**” means a director of the Company who is not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) “**Expenses**” shall include all reasonable and out-of-pocket attorneys’ fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness in or otherwise participating in a Proceeding. Expenses shall also include Expenses incurred in connection with asserting compulsory counterclaims that negate a plaintiff’s claims and Expenses incurred in connection with any appeal resulting from any Proceeding including, without limitation, the premium, security for and other costs relating to any cost bond supersedes bond or other appeal bond or its equivalent.

(e) “**Independent Counsel**” means a law firm, or member of a law firm, that is experienced in matters of corporation law as applicable to Maryland and neither is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party, or (ii) any other party to or participant or witness in the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement.

(f) “**Proceeding**” includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other proceeding (whether civil, criminal, administrative or investigative), including any appeal therefrom. If Indemnitee reasonably believes that a particular situation may lead to or culminate in the institution of a Proceeding, such situation may also be considered a “Proceeding”.

**SECTION 2. Indemnification — General.** The Company shall indemnify and advance Expenses to Indemnitee as provided in this Agreement and otherwise to the fullest extent permitted by Maryland law in effect on the date hereof or to such extent as Maryland law thereafter from time to time may permit; provided, however, that no change in Maryland law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Maryland law as in effect on the date hereof. The rights of Indemnitee provided in this Section 2 shall include, without limitation, the rights set forth in the other sections of this Agreement, including any additional indemnification permitted by Section 2-418(g) of the Maryland General Corporation Law (hereafter, the “MGCL”).

**SECTION 3. Rights to Indemnification.** Except as otherwise provided by Section 12, if, by reason of Indemnitee’s Corporate Status, Indemnitee was, is, or is threatened to be made, a party to any

Proceeding, Indemnatee shall be indemnified against all judgments, penalties, fines and amounts paid in settlement and all Expenses actually and reasonably incurred by Indemnatee or on Indemnatee's behalf in connection with such Proceeding, unless it is established that (i) the act or omission of Indemnatee was material to the matter(s) giving rise to the Proceeding and (A) was committed in bad faith or (B) was the result of active and deliberate dishonesty; (ii) Indemnatee actually received an improper personal benefit in money, property or services; or (iii) in the case of any criminal Proceeding, Indemnatee had reasonable cause to believe that the act or omission was unlawful.

**SECTION 4. Court-Ordered Indemnification.** Notwithstanding any other provision of this Agreement to the contrary, a court of appropriate jurisdiction, upon application of Indemnatee and such notice as the court shall require, may order indemnification in the following circumstances:

(a) if it determines Indemnatee is entitled to reimbursement under Section 2-418(d)(1) of the MGCL, the court shall order indemnification, in which case Indemnatee shall be entitled to recover the expenses of securing such reimbursement; or

(b) if it determines that Indemnatee is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not Indemnatee (i) has met the standard of conduct set forth in Section 2-418(b) of the MGCL or (ii) has been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL, in which case the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any Proceeding by or in the right of the Company or in which liability shall have been adjudged in the circumstances described in Section 2-418(c) of the MGCL shall be limited to Expenses.

**SECTION 5. Indemnification for Expenses of a Party Who is Successful.** Notwithstanding any other provision of this Agreement, to the extent that Indemnatee is successful, on the merits or otherwise, in the defense of any Proceeding to which he or she is made a party (or otherwise becomes a participant) by reason of his or her Corporate Status, or in the defense of any claim, issue or matter in the Proceeding, Indemnatee shall be indemnified against all Expenses (including any fees and expenses of plaintiff's counsel) actually and reasonably incurred by Indemnatee or on Indemnatee's behalf in connection with the Proceeding, claim, issue or matter in which he or she has been successful. For purposes of this Section 5, the term "successful on the merits or otherwise" shall include, but not be limited to, the termination of any claim, issue or matter in a Proceeding by withdrawal or dismissal, with or without prejudice.

**SECTION 6. Indemnification of Expenses of a Witness.** Notwithstanding any other provision of this Agreement, if Indemnatee is or may be, by reason of Indemnatee's Corporate Status, made a witness or otherwise asked to participate in any Proceeding to which Indemnatee is not a party, Indemnatee shall be paid or reimbursed all Expenses actually and reasonably incurred by Indemnatee or on Indemnatee's behalf in connection therewith.

**SECTION 7. Contribution.** If the indemnity contained in Section 2, 3 or 5 of this Agreement is unavailable or insufficient to hold Indemnatee harmless in a Proceeding described therein, then in accordance with applicable law and separate from and in addition to the indemnity provided elsewhere herein, the Company shall contribute to the amount paid or payable by Indemnatee as a result of such Expenses, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnatee in connection with such Proceeding or any claim, issue or matter therein, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and Indemnatee, or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company and Indemnatee in connection with the action or inaction which resulted in such Expenses, judgments, penalties, fines or amounts paid in settlement, as well as any other relevant

equitable considerations. In connection with the registration of the Company's securities, the relative benefits received by the Company and Indemnitee shall be deemed to be in the same respective proportions that the net proceeds from the offering (before deducting expenses) received by the Company and Indemnitee, in each case as set forth in the table on the cover page of the applicable prospectus, bear to the aggregate public offering price of the securities so offered. The relative fault of the Company and Indemnitee shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or Indemnitee and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and Indemnitee agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata or per capita allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section. In connection with any registration of the Company's securities, in no event and notwithstanding the other provisions of this Section 7 shall Indemnitee be required to contribute any amount hereunder in excess of the lesser of (i) that proportion of the total of such Expenses, judgments, penalties, fines or amounts paid in settlement indemnified against equal to the proportion of the total securities sold under such registration statement that is being sold by Indemnitee or (ii) the proceeds received by Indemnitee from his or her sale of securities under such registration statement. No person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act of 1933, as amended) shall be entitled to contribution from any person who was not found guilty of such fraudulent misrepresentation.

**SECTION 8. Advancement of Expenses.** Except as otherwise provided in Section 12, the Company shall pay or reimburse all Expenses reasonably incurred by or on behalf of Indemnitee in connection with any Proceeding to which Indemnitee is, or is threatened to be made, a party by reason of Indemnitee's Corporate Status, in advance of the final disposition of such Proceeding, from time to time and as incurred, within ten (10) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances. Such statement or statements shall include satisfactory evidence and documentation as to the amount of such Expenses and shall be preceded or accompanied by (i) a written affirmation by Indemnitee of Indemnitee's good faith belief that he or she has met the standard of conduct necessary for indemnification by the Company, as authorized by the MGCL and this Agreement and (ii) a written undertaking, in the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of the execution thereof, by or on behalf of Indemnitee to repay the portion of any Expenses advanced relating to claims, issues or matters in the Proceeding as to which it shall ultimately be determined that Indemnitee has not met the standard of conduct and is therefore not entitled to be indemnified against such Expenses. Indemnitee's written certification together with a copy of the statement paid or to be paid by Indemnitee shall constitute satisfactory evidence as to the amount of such Expenses. To the extent that Expenses advanced to Indemnitee do not relate to a specific claim, issue or matter in the Proceeding, such Expenses shall be allocated on a reasonable and proportionate basis. The undertaking required by this Section 8 shall be an unlimited general obligation by or on behalf of Indemnitee and shall be accepted without reference to Indemnitee's financial ability to repay such advanced Expenses and without any requirement to post security therefor. Advances shall be unsecured and interest free. Such advances are deemed to be an obligation of the Company to Indemnitee hereunder, and shall in no event be deemed a personal loan.

**SECTION 9. Procedure for Determination of Entitlement to Indemnification.**

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The officer of the Company receiving such a request shall, promptly upon its receipt, advise the Board in writing that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 9(a) (or, if indemnification is unavailable, contribution pursuant to Section 7 hereof), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall promptly be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel, in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, which Independent Counsel shall be selected by Indemnitee and approved by the Board (or a duly authorized committee thereof) in accordance with Section 2-418(e)(2)(ii) of the MGCL, which approval will not be unreasonably withheld; or (ii) if a Change in Control shall not have occurred, (A) by the Board, by a majority vote of a quorum consisting of Disinterested Directors or, if such a quorum cannot be obtained, then by a majority vote of a duly authorized committee of the Board consisting solely of one or more Disinterested Directors, or (B) if there are no Disinterested Directors or if so directed by a majority vote of a quorum of the Disinterested Directors (or a duly authorized committee thereof), by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, which Independent Counsel shall be selected by the Board (or a duly authorized committee thereof) in accordance with Section 2-418(e)(2)(ii) of the MGCL and approved by Indemnitee, which approval will not be unreasonably withheld, or (C) if so directed by a majority of the members of the Board, by the stockholders of the Company. If, with regard to Section 7 of this Agreement, such a determination is not permitted by law or, in the case of a determination to be made pursuant to Section 9(b)(ii), if by a majority vote a quorum of Disinterested Directors so directs, such determination shall be made by an appropriate court of the State of Maryland or the court in which the Proceeding giving rise to the claim for indemnification is brought. If it is determined that Indemnitee is entitled to indemnification or contribution, payment to Indemnitee shall be made in full within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination in the discretion of the Board or Independent Counsel. Any costs or expenses (including reasonable attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination or otherwise in connection with Indemnitee's request for indemnification shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company shall pay the fees and expenses of Independent Counsel, if one is appointed.

**SECTION 10. Presumptions and Effect of Proceedings.**

(a) Except as set forth in Section 2-418(b)(3)(ii) of the MGCL, in making any determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall in each case presume that Indemnitee is entitled to indemnification under this Agreement, and the Company shall in each case have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption.

(b) If the person, persons or entity making the determination whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor (or, if Independent Counsel is making the determination, within sixty (60) days after the appointment of Independent Counsel), the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, in the absence of (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under Maryland law. The sixty (60)-day period may be extended for a reasonable time, not to exceed thirty (30) days, if the person, persons or entity making said determination in good faith requires additional time for obtaining or evaluating relevant documentation and information. The foregoing provisions of this Section 10(b) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders and if within fifteen (15) days after receipt by the Company of the request for such determination the Board resolves to submit such determination to the stockholders for consideration at an annual or special meeting thereof to be held within seventy-five (75) days after the date of such receipt and such determination is made at such meeting.

(c) The termination of any Proceeding or of any claim, issue or matter therein by judgment, order or settlement shall not of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not meet the standard of conduct.

**SECTION 11. Remedies of Indemnitee.**

(a) In the event that (i) a determination is made pursuant to Section 9 that Indemnitee is not entitled to indemnification or contribution, as the case may be, under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 8, (iii) no determination of entitlement to indemnification shall have been made within ninety (90) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5 within ten (10) days after receipt by the Company of a written request therefor, together with a statement reasonably evidencing the Expenses incurred by Indemnitee, (v) payment of indemnification or contribution, as the case may be, is not made within ten (10) days after a determination of entitlement thereto has been made pursuant to Section 9 or deemed to have been made pursuant to Section 10(b), Indemnitee shall be entitled to an adjudication in any court of competent jurisdiction of Indemnitee's entitlement to such indemnification or advancement of Expenses. Indemnitee shall commence any such proceeding seeking an adjudication within 180 days following the date on which Indemnitee first has the right to commence such proceedings pursuant to this Section 11(a). The Company shall not oppose Indemnitee's right to seek any adjudication. If Indemnitee commences a judicial proceeding pursuant to this Section 11, Indemnitee shall not be required to reimburse the Company for any advanced Expenses pursuant to Section 8 of this Agreement until a final determination is made with respect to Indemnitee's entitlement to indemnification (as to which all rights of appeal have been exhausted or lapsed).

(b) In the event that a determination shall have been made pursuant to Section 9 that Indemnitee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 11 shall be conducted in all respects as a de novo trial on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding commenced pursuant to this Section 11, the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made or deemed to have been made pursuant to Section 9 or 10 that Indemnitee is entitled to indemnification or contribution, as the case may be, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 11, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding commenced pursuant to this Section 11 that the procedures and presumptions of this Agreement are not valid, binding or enforceable and shall stipulate in any such court that the Company is bound by all the provisions of this Agreement.

(e) In the event Indemnitee, pursuant to this Section 11, seeks a judicial adjudication to enforce Indemnitee's rights under, or seeks to recover damages for breach of, this Agreement, Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company against, any and all expenses of the types described in the definition of Expenses in Section 1 of this Agreement actually and reasonably incurred by Indemnitee in such judicial adjudication, but only if Indemnitee prevails therein. If it shall be determined in said judicial adjudication that Indemnitee is entitled to receive part but not all of the indemnification or contribution or advancement of expenses sought, such expenses incurred by Indemnitee in connection with such judicial adjudication shall be appropriately apportioned.

(f) Interest shall be paid by the Company to Indemnitee at the maximum rate allowed to be charged for judgments under the Courts and Judicial Proceedings Article of the Annotated Code of Maryland for amounts which the Company pays or is obligated to pay hereunder for the period commencing with the date on which Indemnitee requests indemnification, reimbursement or advancement of any Expenses and ending on the date such payment is made to Indemnitee by the Company.

**SECTION 12. Exceptions to Right of Indemnification or Advance of Expenses.** Notwithstanding any other provision herein to the contrary, Indemnitee shall not be entitled pursuant to this Agreement to:

(a) indemnification in respect of any claim, issue or matter in any Proceeding by or in the right of the Company as to which Indemnitee shall have been adjudged to be liable to the Company;

(b) indemnification in respect of any Proceeding charging improper personal benefit to Indemnitee in which Indemnitee was adjudged liable on the basis that personal benefit was improperly received;

(c) indemnification or advancement of Expenses with respect to any Proceeding brought by Indemnitee, unless (a) the Proceeding is brought to enforce indemnification or advancement of Expenses under this Agreement, and then only to the extent in accordance with and as authorized by

Section 11 of this Agreement or (b) the Charter or Bylaws of the Company, a resolution of the Board or an agreement approved by the Board to which the Company is a party expressly provide otherwise;

(d) indemnification or advancement of Expenses to the extent prohibited by Maryland law, except as set forth in Section 4 of this Agreement; or

(e) indemnification for amounts paid in settlement of any Proceeding without the Company's prior written consent, which shall not be unreasonably withheld.

**SECTION 13. Defense of the Underlying Proceeding.**

(a) Indemnitee shall notify the Company promptly upon being served with or receiving any summons, citation, subpoena, complaint, indictment, information, notice, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder; provided, however, that the failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to indemnification or the advance of Expenses under this Agreement unless the Company's ability to defend in such Proceeding or to obtain proceeds under any insurance policy is materially and adversely prejudiced thereby, and then only to the extent the Company is thereby actually so prejudiced.

(b) Subject to the provisions of the last sentence of this Section 13(b) and of Section 13(c) below, the Company shall have the right to assume the defense of Indemnitee in any Proceeding which may give rise to indemnification hereunder with counsel reasonably acceptable to Indemnitee; provided, however, that the Company shall notify Indemnitee of any such decision to defend within fifteen (15) calendar days following receipt of notice of any such Proceeding under Section 13(a) above. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. The Company shall not, without the prior written consent of Indemnitee, which shall not be unreasonably withheld or delayed, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee, (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee or (iii) would impose any Expense, judgment, fine, penalty or limitation on Indemnitee. This Section 13(b) shall not apply to a Proceeding brought by Indemnitee under Section 11 above.

(c) Notwithstanding the provisions of Section 13(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that he or she may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with other defendants in such Proceeding, (ii) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that an actual or apparent conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice, subject to the prior approval of the Company, which shall not be unreasonably withheld, at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any Proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, subject to the prior approval of the Company, which shall not be



unreasonably withheld, at the expense of the Company (subject to Section 11(e) of this Agreement), to represent Indemnitee in connection with any such matter. The Company shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Company or as to which counsel for Indemnitee shall have reasonably made the conclusion provided for in clause (ii) above.

**SECTION 14. Non-Exclusivity; Insurance; Subrogation.**

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights, by indemnification or otherwise, to which Indemnitee may at any time be entitled under applicable law, the Company's Charter or Bylaws, any agreement, a vote of the Company's stockholders, a resolution of the Board, or otherwise. No amendment, alteration or repeal of this Agreement or any provision hereof shall be effective as to Indemnitee with respect to any act or omission by Indemnitee prior to such amendment, alteration or repeal.

(b) For so long as Indemnitee serves as a director **[officer]** and for a period thereafter so long as such director **[officer]** remains subject to liability under applicable statutes of limitations, the Company will cause to be maintained in full force and effect directors' and officers' liability insurance covering Indemnitee or any claim made against Indemnitee by reason of his or her Corporate Status, on terms and conditions deemed appropriate by the Board. Without in any way limiting any other obligation under this Agreement, the Company shall indemnify Indemnitee for any payment by Indemnitee arising out of the amount of any deductible or retention and the amount of any excess of the aggregate of all judgments, penalties, fines, settlements and Expenses actually and reasonably incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence. If the Company receives from Indemnitee any notice of the commencement of a Proceeding, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the policy. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policy.

(c) In the event of any payment by the Company under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable or payable or reimbursable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy maintained by the Company, contract, agreement or otherwise.

**SECTION 15. Duration of Agreement.** This Agreement shall continue until and terminate ten (10) years after the date that Indemnitee shall have ceased to serve as a director, officer, employee, or agent of the Company or of any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise which Indemnitee served at the request of the Company; provided, however, that the rights of Indemnitee hereunder shall continue until the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 11 relating thereto.

**SECTION 16. Successors and Assigns.**

(a) The indemnification and advance of Expenses provided by, or granted pursuant to, this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or of any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Company, and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(b) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

**SECTION 17. Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

**SECTION 18. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought need be produced to evidence the existence of this Agreement.

**SECTION 19. Headings.** The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

**SECTION 20. Modification and Waiver.** No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

**SECTION 21. Mutual Acknowledgement.** Both the Company and Indemnitee acknowledge that in certain instances federal law or public policy may prohibit the Company from indemnifying Indemnitee under this Agreement or otherwise. Indemnitee understands and acknowledges that the Company shall not be required to provide indemnification or advance Expenses in violation of applicable law.

**SECTION 22. Notice to the Company's Stockholders.** Any indemnification of, or advancement of Expenses, to Indemnitee arising out of a Proceeding by or in the right of the Company, shall be

reported in writing to the stockholders of the Company with the notice of the next stockholders' meeting or prior to the meeting.

**SECTION 23. Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given (i) when delivered by hand (with written confirmation of receipt), (ii) on the next business day after it is sent by facsimile with confirmation of transmission by the transmitting equipment, (iii) when received by the addressee, if sent by certified mail, return receipt requested, or (iv) when received by the addressee, if sent by a nationally recognized overnight delivery service, return receipt requested, in each case to the appropriate addresses or facsimile numbers set forth below (or to such other addresses or facsimile numbers as a party may designate by written notice to the other party):

(a) If to Indemnitee, to the address set forth under the signature of Indemnitee below.

(b) If to the Company, to:

Corrections Corporation of America  
10 Burton Hills Boulevard  
Nashville, Tennessee 37215  
Attn: G.A. Puryear, IV, Executive Vice President, General Counsel and Secretary

**SECTION 24. Governing Law.** The parties agree that this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland without application of the conflict of laws principles thereof.

**SECTION 25. Consent to Jurisdiction.** The Company and Indemnitee each hereby irrevocably consent to jurisdiction and venue of the courts of the State of Maryland for all purposes in connection with any Proceeding which arises out of or relates to this Agreement and agree that any Proceeding instituted under this Agreement shall be commenced, prosecuted and continued only in the courts of the State of Maryland. **COMPANY AND INDEMNITEE HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY:

**CORRECTIONS CORPORATION OF AMERICA**

By: \_\_\_\_\_  
Name:  
Title:

INDEMNITEE:

\_\_\_\_\_  
Name:  
Address:  
Facsimile:

EXHIBIT A

FORM OF UNDERTAKING TO REPAY EXPENSES ADVANCED

The Board of Directors of Corrections Corporation of America

Re: Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This undertaking is being provided pursuant to that certain Indemnification Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between Corrections Corporation of America (the "Company") and the undersigned Indemnitee (the "Indemnification Agreement"), pursuant to which I am entitled to advance of expenses in connection with **[Description of Proceeding]** (the "Proceeding").

Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of my Corporate Status or by reason of alleged actions or omissions by me in such capacity. I hereby affirm that at all times, insofar as I was involved in any of the facts or events giving rise to the Proceeding, I (1) did not act in bad faith or with active or deliberate dishonesty, (2) did not receive any improper personal benefit in money, property or services and (3) in the case of any criminal proceeding, had no reasonable cause to believe that any act or omission by me was unlawful.

In consideration of the advance of Expenses by the Company for reasonable attorneys' fees and related expenses incurred by me in connection with the Proceeding (the "Advanced Expenses"), I hereby agree that if it is established that (1) an act or omission by me was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty, or (2) I actually received an improper personal benefit in money, property or services or (3) in the case of any criminal proceeding, I had reasonable cause to believe that the act or omission was unlawful, then I shall promptly reimburse the Company the portion of the Advanced Expenses relating to the claims, issues or matters in the Proceeding as to which the foregoing findings have been established. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on

This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

INDEMNITEE:

\_\_\_\_\_  
Name: \_\_\_\_\_

August 14, 2009

Corrections Corporation of America  
10 Burton Hills Boulevard  
Nashville, TN 37215  
Attention: Board of Directors

**Re: Second Amended and Restated Employment Agreement by and between Corrections Corporation of America (“CCA”) and John D. Ferguson, dated as of August 15, 2007, as amended (the “Agreement”)**

Ladies and Gentlemen:

Pursuant to Section 3 of the Agreement, I hereby provide notice of my election not to extend the Agreement in connection with my decision to step down as Chief Executive Officer of CCA effective October 15, 2009. Notwithstanding my decision to step down as Chief Executive Officer, I intend to continue as a member and the Chairman of the Board of Directors, subject to election by CCA’s stockholders and the Board of Directors, respectively, in accordance with CCA’s bylaws.

As previously discussed with CCA, I will remain employed by CCA as an “at will” employee on terms and conditions to be established by the Compensation Committee of the Board of Directors. In addition, since I will remain an employee of CCA, my currently outstanding restricted shares of CCA common stock and options to purchase CCA common stock will continue to vest in accordance with their respective terms. I understand that the commencement of payments owed to me under the Agreement may be required to be deferred in order to satisfy the requirements of § 409A of the Internal Revenue Code. We also agree that provisions of the Agreement which govern our respective post-Agreement obligations will be effective upon my leaving the employment of CCA.

Please confirm CCA’s acknowledgement of and agreement with the foregoing by signing in the space provided below.

Very truly yours,

/s/ John D. Ferguson

John D. Ferguson

Confirmed and Agreed as  
of the date written above:

CORRECTIONS CORPORATION OF AMERICA

By: /s/ Joseph V. Russell

Name: Joseph V. Russell

Title: Chair, Compensation Committee

**SECOND AMENDMENT TO THE AMENDED AND RESTATED  
CORRECTIONS CORPORATION OF AMERICA 2000 STOCK INCENTIVE PLAN**

WHEREAS, Corrections Corporation of America, a Maryland corporation (the "Company"), maintains the Amended and Restated Corrections Corporation of America 2000 Stock Incentive Plan (the "Plan");

WHEREAS, pursuant to Section 17 of the Plan, the Board of Directors of the Company (the "Board") may amend the Plan; and

WHEREAS, the Company desires to amend Section 6(h) of the Plan to permit a Participant (as defined in the Plan) to transfer nonqualified stock options granted to him or her under the Plan to certain entities.

NOW, THEREFORE, effective as of August 14, 2009, the Plan is hereby amended as follows:

1. Amendment. Section 6(h) of the Plan is hereby deleted in its entirety and replaced with the following:

"(h) Transferability of Options. Except as provided in this Section 6(h), no Options shall be (i) transferable otherwise than by will or the laws of descent and distribution, or (ii) exercisable during the lifetime of the Participant by anyone other than the Participant. Nonqualified Stock Options granted to a Participant, may be transferred by such Participant to a permitted transferee (as defined below), provided that (i) such Nonqualified Stock Options shall be fully vested; (ii) there is no consideration for such transfer (other than receipt by the Participant of interests in an entity that is a permitted transferee); (iii) the Participant (or such Participant's estate or representative) shall remain obligated to satisfy all income or other tax withholding obligations associated with the exercise of such Nonqualified Stock Options; (iv) the Participant shall notify the Company in writing prior to such transfer and disclose to the Company the name and address of the permitted transferee and the relationship of the permitted transferee to the Participant; and (v) such transfer shall be effected pursuant to transfer documents in a form approved by the Company. A permitted transferee may not further assign or transfer any such transferred Nonqualified Stock Options otherwise than by will or the laws of descent and distribution. Following the transfer of Nonqualified Stock Options to a permitted transferee, such Nonqualified Stock Options shall continue to be subject to the same terms and conditions that applied to them prior to their transfer by the Participant, except that they shall be exercisable by the permitted transferee to whom such transfer was made rather than by the transferring Participant. For the purposes of the Plan, the term "permitted transferee" means, with respect to a Participant, (i) any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law of the Participant, including adoptive relationships, (ii) a trust in which the Participant or the persons described in clause (i) above have more than fifty percent of the beneficial interest or (iii) to a partnership, limited liability company or corporation in which the Participant or the

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persons referred to in clause (i) collectively hold more than a fifty percent ownership interest.”

2. Effect of Amendment. Except as expressly modified by the terms of the above amendment, the provisions of the Plan shall continue in full force and effect.

*[Signature Page Follows]*

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CORRECTIONS CORPORATION OF AMERICA

By: /s/ Todd J Mullenger

Name: Todd J Mullenger

Title: Executive Vice President and Chief Financial Officer

## News Release



Contact: Karin Demler, Investor Relations, 615-263-3005  
Louise Grant, Media, 615-263-3106

**CORRECTIONS CORPORATION OF AMERICA  
ANNOUNCES DAMON HININGER TO SUCCEED  
JOHN FERGUSON AS CHIEF EXECUTIVE OFFICER**

***JOHN FERGUSON TO REMAIN AS CHAIRMAN OF THE BOARD OF DIRECTORS***

**NASHVILLE, TN — August 17, 2009 — Corrections Corporation of America (NYSE: CXW)** (the “Company” or “CCA”), the nation’s largest provider of corrections management services to government agencies, announced today that John Ferguson, the Company’s Chairman and Chief Executive Officer will retire as CEO effective October 15, 2009. Damon Hininger, who currently serves as the Company’s President and Chief Operating Officer, has been named to succeed Mr. Ferguson as Chief Executive Officer and will also serve as a director. Mr. Ferguson will remain as Chairman of the Company’s Board of Directors and as an active participant during the transition and in his responsibilities with the Board of Directors.

“On behalf of the Board of Directors and management, I would like to thank John for his invaluable service and leadership to our company over the last nine years. John successfully led a turnaround of CCA, instituting dramatic change in the Company’s business structure and returning CCA to profitability,” said William Andrews, Chairman of the Executive Committee of CCA’s Board of Directors. “John has helped to establish a strong business model that continues to successfully serve our customers, stockholders and employees. We look forward to his continued work and leadership as Chairman of the Company’s Board of Directors.”

Commenting on the transition, John Ferguson, CCA’s Chairman of the Board stated, “First let me express my gratitude to the Board and the shareholders of CCA for allowing me to serve as President and CEO, and to continue as Chairman of the Board. I look forward to working with the other Board members to continue to build a strong and dynamic Board of Directors that is committed to CCA’s mission and vision. While at CCA I faced many opportunities and challenges, but I always found it fulfilling and rewarding. Although I will continue to be involved with CCA’s Board and expect to remain quite active during the transition, I look forward to the next chapter of my life.”

Mr. Ferguson added, “I would also like to congratulate Damon on his achievement. Having started with CCA 17 years ago, Damon intimately knows every aspect of CCA’s business and is well equipped to build on CCA’s strategy and successfully lead CCA into the future. Damon epitomizes our active approach to professional staff development and I am proud of his accomplishments.”

10 Burton Hills Boulevard, Nashville, Tennessee 37215, Phone: 615-263-3000

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Mr. Hininger concluded, "I am honored and grateful for this opportunity and look forward to serving as President and Chief Executive Officer of CCA. I would like to thank the Board of Directors for the confidence they have placed in me. I especially would like thank John, who has been a great mentor to me. I look forward to working with John in his role as Chairman and building on the strong foundation he established during his time as CEO of the Company."

Mr. Hininger joined the Company in 1992 gaining exposure to essentially all aspects of the business throughout his career. Most recently he served as, President and Chief Operating Officer; Senior Vice President, Federal Customer Relations; Vice President, Federal Customer Relations and Vice President, Business Analysis. Mr. Hininger earned a bachelor's degree from Kansas State University and an M.B.A. from the Jack Massey School of Business at Belmont University.

### **About the Company**

The Company is the nation's largest owner and operator of privatized correctional and detention facilities and one of the largest prison operators in the United States, behind only the federal government and three states. The Company currently operates 65 facilities, including 40 company-owned facilities, with a total design capacity of approximately 86,500 beds in 19 states and the District of Columbia. The Company specializes in owning, operating and managing prisons and other correctional facilities and providing inmate residential and prisoner transportation services for governmental agencies. In addition to providing the fundamental residential services relating to inmates, the Company's facilities offer a variety of rehabilitation and educational programs, including basic education, religious services, life skills and employment training and substance abuse treatment. These services are intended to reduce recidivism and to prepare inmates for their successful re-entry into society upon their release. The Company also provides health care (including medical, dental and psychiatric services), food services and work and recreational programs.

### **Forward-Looking Statements**

This press release contains statements as to the Company's beliefs and expectations of the outcome of future events that are forward-looking statements as defined within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from the statements made. These include, but are not limited to, the risks and uncertainties associated with: (i) fluctuations in the Company's operating results because of, among other things, changes in occupancy levels, competition, increases in cost of operations, fluctuations in interest rates and risks of operations; (ii) changes in the privatization of the corrections and detention industry, the public acceptance of the Company's services, the timing of the opening of and demand for new prison facilities and the commencement of new management contracts; (iii) the Company's ability to obtain and maintain correctional facility management contracts, including as a result of sufficient governmental appropriations and as a result of inmate disturbances; (iv) increases in costs to construct or expand correctional facilities that exceed original estimates, or the inability to complete such projects on schedule as a result of various factors, many of which are beyond the Company's control, such as weather, labor

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conditions and material shortages, resulting in increased construction costs; and (v) general economic and market conditions. Other factors that could cause operating and financial results to differ are described in the filings made from time to time by the Company with the Securities and Exchange Commission.

The Company takes no responsibility for updating the information contained in this press release following the date hereof to reflect events or circumstances occurring after the date hereof or the occurrence of unanticipated events or for any changes or modifications made to this press release or the information contained herein by any third-parties, including, but not limited to, any wire or internet services.

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