

**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): **November 15, 2023**

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

Delaware
(State or other jurisdiction of
incorporation)

001-35992
(Commission
File Number)

54-2185193
(IRS Employer
Identification No.)

2300 Oracle Way, Austin, Texas 78741
(Address of principal executive offices) (Zip Code)

(737) 867-1000
(Registrant's telephone number, including area code)

N/A
(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:

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

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

Title of each class
Common Stock, par value \$0.01 per share
3.125% senior notes due July 2025

Trading Symbol(s)
ORCL

Name of each exchange on which registered
New York Stock Exchange
New York Stock Exchange

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

Emerging growth company

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

Section 5—Corporate Governance and Management

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

On November 15, 2023, at the 2023 Annual Meeting of Stockholders (the “Annual Meeting”) of Oracle Corporation (“Oracle”), Oracle’s stockholders approved an amendment to the Oracle Corporation Amended and Restated 2020 Equity Incentive Plan (the “2020 Equity Plan”) to increase the number of shares of common stock reserved for issuance under the 2020 Equity Plan by 350,000,000 shares. Oracle’s Board of Directors (the “Board”) approved the amendment of the 2020 Equity Plan, subject to stockholder approval, on August 3, 2023.

The foregoing description of the 2020 Equity Plan is qualified in its entirety by reference to the 2020 Equity Plan, as amended, which is filed as Exhibit 10.18 to this Current Report on Form 8-K. A more complete description of the terms of the 2020 Equity Plan can be found in “Proposal No. 4: Approval of an Amendment to the Oracle Corporation Amended and Restated 2020 Equity Incentive Plan” on pages 73 to 81 of Oracle’s definitive proxy statement filed with the U.S. Securities and Exchange Commission (“SEC”) on September 22, 2023 (the “2023 Proxy Statement”), which description is incorporated by reference herein.

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

On November 15, 2023, in connection with a periodic review of the bylaws of Oracle, including the effectiveness of SEC rules regarding universal proxy cards and certain changes to the Delaware General Corporation Law (the “DGCL”), the Board adopted amendments to Oracle’s Amended and Restated Bylaws (as amended, the “Amended Bylaws”). Among other things, the amendments effected by the Amended Bylaws:

- Enhance procedural mechanics and disclosure requirements in connection with stockholder nominations of directors and submission of stockholder proposals made in connection with annual and special meetings of stockholders, including by requiring additional disclosures, representations and warranties from nominating or proposing stockholders and proposed nominees and their respective affiliates and associates about their Oracle stock ownership, agreements with respect to voting commitments and stock ownership, relationships among the nominating or proposing stockholders and proposed nominees, litigation with Oracle and intent to comply with applicable Oracle governance, ethics and similar codes and policies;
- Align provisions regarding nominations of directors and solicitations of proxies with Rule 14a-19 under the Securities Exchange Act of 1934, as amended, including:
 - o Requiring the nominating stockholder or beneficial owner to represent that it intends to solicit proxies or votes from stockholders representing at least 67% of the voting power of the shares entitled to vote on the election of directors;
 - o Requiring the nominating stockholder to provide Oracle, no later than five business days prior to the applicable stockholder meeting, with reasonable written evidence that it has solicited proxies or votes from stockholders representing at least 67% of the voting power of the shares entitled to vote on the election of directors;
 - o Requiring that a stockholder soliciting proxies from other stockholders use a proxy card color other than white; and
 - o Clarifying that a failure to provide information required by Rule 14a-19 or comply with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) will result in Oracle disregarding a stockholder’s nomination or proposal of other business;
- Modify provisions relating to adjournment procedures and procedural requirements related to stockholder actions by written consent and eliminate the requirement that a list of stockholders be made available at stockholder meetings, in each case, to reflect amendments to the DGCL;
- Limit the number of nominees that a stockholder may nominate to the number of directors to be elected at such meeting;
- Clarify that a withdrawal of stockholders at a meeting will not invalidate a quorum, if a quorum is present when a meeting of stockholders is convened; and

- Make various other updates, including administrative, ministerial, refining and conforming changes and adding gender neutral language.

The foregoing description is qualified in its entirety by reference to the full text of the Amended Bylaws, a copy of which is filed as Exhibit 3.02 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders

Below is a brief description of each matter submitted to a vote at the Annual Meeting, as well as the final voting results with respect to each matter. For more information about these proposals, please refer to Oracle's 2023 Proxy Statement.

Proposal No. 1: Election of Directors

The stockholders elected each of the following persons as a director to hold office until the 2024 Annual Meeting of Stockholders and until his or her successor is elected and qualified, or until his or her earlier resignation or removal.

Director Nominee	Votes For	Votes Withheld	Broker Non-Votes
Awo Ablo	2,000,979,359	272,208,135	251,050,401
Jeffrey S. Berg	1,776,677,297	496,510,197	251,050,401
Michael J. Boskin	1,881,572,847	391,614,647	251,050,401
Safra A. Catz	1,924,573,586	348,613,908	251,050,401
Bruce R. Chizen	1,754,323,454	518,864,040	251,050,401
George H. Conrades	1,724,977,850	548,209,644	251,050,401
Lawrence J. Ellison	1,975,567,335	297,620,159	251,050,401
Rona A. Fairhead	1,990,056,771	283,130,723	251,050,401
Jeffrey O. Henley	1,968,299,789	304,887,705	251,050,401
Renée J. James	1,983,016,498	290,170,996	251,050,401
Charles W. Moorman	1,826,114,793	447,072,701	251,050,401
Leon E. Panetta	1,747,128,839	526,058,655	251,050,401
William G. Parrett	1,851,896,107	421,291,387	251,050,401
Naomi O. Seligman	1,779,112,862	494,074,632	251,050,401
Vishal Sikka	1,986,292,517	286,894,977	251,050,401

Proposal No. 2: Advisory Vote to Approve the Compensation of Oracle's Named Executive Officers

The stockholders cast an advisory vote approving the compensation of Oracle's named executive officers ("NEOs") as follows: 1,651,282,946 shares in favor, 615,035,285 shares against, 6,869,263 shares abstaining and 251,050,401 broker non-votes.

Proposal No. 3: Advisory Vote on the Frequency of Future Advisory Votes on the Compensation of Oracle's NEOs

The stockholders cast an advisory vote on the frequency of future votes on the compensation of Oracle's NEOs as follows: 2,253,954,654 shares for one year, 1,889,363 shares for two years, 13,479,499 shares for three years, 3,863,978 shares abstaining and 251,050,401 broker non-votes. Consistent with the results of the vote and the Board's recommendation, the Board has determined that Oracle will hold an advisory vote on the compensation of Oracle's NEOs every year until the next required advisory vote on the frequency of such votes.

Proposal No. 4: Approval of an Amendment to the Oracle Corporation Amended and Restated 2020 Equity Incentive Plan

The stockholders approved an amendment to the 2020 Equity Plan, with 1,609,707,568 shares in favor, 658,173,901 shares against, 5,306,025 shares abstaining and 251,050,401 broker non-votes.

Proposal No. 5: Ratification of the Selection of Independent Registered Public Accounting Firm

The stockholders ratified the appointment of Ernst & Young LLP as Oracle's independent registered public accounting firm for the fiscal year ending May 31, 2024, with 2,462,610,220 shares in favor, 58,488,587 shares against and 3,139,088 shares abstaining.

Proposal No. 6: Stockholder Proposal Regarding Pay Gap Report

The stockholders did not approve a stockholder proposal requesting that Oracle prepare a racial and gender pay gap report, with 714,795,113 shares in favor, 1,550,428,453 shares against, 7,963,928 shares abstaining and 251,050,401 broker non-votes.

Proposal No. 7: Stockholder Proposal Regarding Independent Board Chairman

The stockholders did not approve a stockholder proposal requesting that Oracle's Board adopt a policy requiring the Chairman of the Board to be independent, with 514,536,873 shares in favor, 1,753,303,803 shares against, 5,346,818 shares abstaining and 251,050,401 broker non-votes.

Section 9—Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit No.	Description
3.02	Amended and Restated Bylaws of Oracle Corporation
10.18	Oracle Corporation Amended and Restated 2020 Equity Incentive Plan, as approved on November 15, 2023
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURE

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

Dated: November 17, 2023

ORACLE CORPORATION

By: /s/ Kimberly Woolley

Name: Kimberly Woolley

Title: Vice President, Assistant General Counsel and
Assistant Secretary

AMENDED AND RESTATED

BYLAWS

OF

ORACLE CORPORATION

(a Delaware corporation)

Adopted January 31, 2006

Amended and restated by the Board of Directors as of November 15, 2023

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AMENDED AND RESTATED

BYLAWS
OF

ORACLE CORPORATION
(a Delaware corporation)
Adopted January 31, 2006

Amended and restated by the Board of Directors as of November 15, 2023

ARTICLE 1
STOCKHOLDERS

Section 1.01. *Annual Meetings.* An annual meeting of stockholders shall be held for the election of directors at such date, time and place, either within or without the State of Delaware, as the Board of Directors shall each year fix. The Board of Directors may, in its sole discretion, determine that a meeting shall be held, in addition to or instead of a physical meeting, by means of remote communication. Any other proper business may be transacted at the annual meeting.

Section 1.02. *Special Meetings.* Special meetings of stockholders for any purpose or purposes may be called at any time by the Chair of the Board, a CEO, the Board of Directors or stockholders holding shares representing not less than twenty percent of the outstanding votes entitled to vote at the meeting. Special meetings may not be called by any other person or persons.

Section 1.03. *Notice of Meetings.* Notice of all meetings of stockholders shall be given in writing or by electronic transmission stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise required by applicable law or the Certificate of Incorporation of the Corporation, such notice shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting.

Section 1.04. *Adjournments.* Any meeting of stockholders may adjourn from time to time to reconvene at the same or another place (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication), and notice need not be given of any such adjourned meeting if the time, place, if any, and the means of remote communication, if any, by which stockholders may be deemed to be present in person and vote at such adjourned meeting are (a) announced at the meeting at which the adjournment is taken, or (b) in the case of a meeting conducted by means of remote communications, displayed, during the time of the scheduled meeting, on the same electronic network used to enable stockholders to participate in the meeting by means of remote communication, or (c) set forth in the notice of the meeting; provided, however, that if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned meeting the Corporation may transact any business that might have been transacted at the original meeting.

Section 1.05. *Quorum.* At each meeting of stockholders the holders of a majority of the shares of stock entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum, except where otherwise required by law. If a quorum shall fail to attend any meeting, the chair of the meeting or the holders of a majority of the shares entitled to vote who are present, in person or by proxy, at the meeting may adjourn the meeting. Shares of the Corporation's stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any other corporation to vote any of the Corporation's stock held by it in a fiduciary capacity. If a quorum is present when a meeting is convened, the subsequent withdrawal of stockholders, even though less than a quorum remains, shall not affect the validity of any action taken at the meeting or any adjournment thereof.

Section 1.06. *Organization.* Meetings of stockholders shall be presided over by such person as the Board of Directors may designate, or, in the absence of such a person, the Chair of the Board, or, in the absence of such person, a CEO of the Corporation, or, in the absence of such person, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, at the meeting. Such person shall be chair of the

meeting and shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seems to him or her to be in order. The Secretary of the Corporation shall act as secretary of the meeting, but in his or her absence the chair of the meeting may appoint any person to act as secretary of the meeting.

Section 1.07. *Voting; Proxies.* Unless otherwise provided by law, and subject to the provisions of Section 1.06 of these Bylaws, each stockholder shall be entitled to one vote for each share of stock held by such stockholder. Each stockholder entitled to vote at a meeting of stockholders, or to express consent or dissent to corporate action in writing without a meeting, may authorize another person or persons to act for such stockholder by proxy. Voting at meetings of stockholders need not be by written ballot and need not be conducted by inspectors unless such is demanded by a stockholder or stockholders holding shares representing at least one percent of the votes entitled to vote at such meeting, or by such stockholder's or stockholders' proxy. If a vote is to be taken by written ballot, each such ballot shall state the name of the stockholder or proxy voting and such other information as the chair of the meeting deems appropriate, and the ballots shall be counted by one or more inspectors appointed by the chair of the meeting. At all meetings of stockholders for the election of directors a plurality of the votes cast shall be sufficient to elect. All other elections and questions, unless otherwise provided by law or these Bylaws, shall be decided by the vote of the holders of a majority of the shares of stock entitled to vote thereon present in person or by proxy at the meeting.

Section 1.08. *Fixing Date For Determination of Stockholders of Record.* In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. If no record date is fixed by the Board of Directors, then the record date shall be as provided by law. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date for such consent. Such request shall include a brief description of the action proposed to be taken. The Board of Directors shall, within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. Such record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business, or any officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by applicable law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the date on which the Board of Directors adopts the resolution taking such prior action.

Section 1.09. *List of Stockholders Entitled To Vote.* A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least ten (10) days prior to the meeting, either (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting or (b) during ordinary business hours, at the principal place of business of the Corporation.

Section 1.10. *Action By Consent of Stockholders.* Unless otherwise restricted by the Certificate of Incorporation, and except as set forth in Section 1.08 above, any action required or permitted to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who were stockholders as of the record date for the action by written consent, would have been entitled to notice of the meeting of stockholders if such action had been taken at a meeting and the record date for notice of such meeting were the same as the record date for such action by consent and have not consented in writing.

Section 1.11. *Nominations and Stockholder Business.* (a) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders only (i) pursuant to the Corporation's notice of meeting (or any supplement thereto), (ii) by or at the direction of the Board of Directors or any committee thereto, (iii) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in Section 1.11(b) of these Bylaws, who is entitled to vote at the meeting and who complied with the notice procedures set forth in Section 1.11(b) of these Bylaws, or (iv) with respect to nominations, by an Eligible Stockholder whose Proxy Access Nominee (each, as defined in Section 1.12 of these Bylaws) is included in the Corporation's proxy materials for the relevant annual meeting in accordance with Section 1.12 of these Bylaws.

(b) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to Section 1.11(a)(iii) of these Bylaws, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, such notice must set forth all information required under this Section 1.11(b) and such business other than the nominations of persons for election to the Board of Directors must be a proper subject for stockholder action under the Delaware General Corporation Law. To be timely, a stockholder's written notice shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation by the close of business not less than ninety (90) days nor more than one hundred twenty (120) days prior to the date on which the Corporation first mailed its proxy materials for the prior year's annual meeting of stockholders; provided, however, that in the event that the date of the annual meeting is advanced by more than thirty (30) days or delayed (other than as a result of adjournment) by more than thirty (30) days from the anniversary of the previous year's annual meeting, notice by the stockholder to be timely must be delivered not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of any adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. To be in proper written form, such stockholder's notice must set forth:

(i) as to each person whom the stockholder proposes to nominate for election or reelection as a director:

- (A) such person's name, age, business address and, if known, residential address;
- (B) 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");
- (C) such person's written consent to being named in a proxy statement as a nominee and to serving as a director if elected and public disclosure of information provided pursuant to this Section 1.11(b) (i);
- (D) the class or series and numbers of shares of stock of the Corporation which are directly or indirectly owned beneficially and of record by such person and such person's affiliates or associates as of the date of such notice;

(E) a description of any significant direct or indirect equity interests in any principal competitor of the Corporation held by such stockholder, such beneficial owner or any of their respective affiliates or associates or other acting in concert therewith;

(F) a completed and executed questionnaire, representation and agreement for the proposed nominee referenced in Section 1.11(d) of these Bylaws and a signed certification of the statements (to the extent relating to such proposed nominee) set forth in Section 1.11(c) of these Bylaws;

(G) a representation and agreement that such proposed nominee is not and will not become party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act, in such person's capacity as a director of the Corporation, or vote on any issue or question in such person's capacity as a director of the Corporation (a "Voting Commitment") that has not been disclosed to the Corporation, (2) any Voting Commitment that could limit or interfere with the proposed nominee's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law or (3) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the Corporation that has not been disclosed to the Corporation;

(H) a representation made in such proposed nominee's individual capacity that such person would be in compliance, if elected as a director of the Corporation, and will comply with all applicable publicly disclosed corporate governance, ethics, conflict of interest, confidentiality and stock ownership and trading policies and principles of the Corporation, including codes of conduct; and

(I) a representation that the proposed nominee, if elected as a director of the Corporation, intends to serve the full term as a director;

(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 text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and

(iii) as to the stockholder giving the notice and the beneficial owners, if any, on whose behalf the nomination or proposal is made:

(A) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner;

(B) the class and number of shares of the Corporation which are directly or indirectly owned beneficially and of record by such stockholder and such beneficial owner and their respective affiliates or associates as of the date of such notice;

(C) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and such beneficial owner, any of their respective affiliates or associates and any others acting in concert with the foregoing, including all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among (1) the stockholder, the beneficial owner, on whose behalf the nomination is being made or the respective affiliates or associates of, or others acting in concert with, such stockholder or such beneficial owner, on the one hand, and (2) each proposed nominee, or his or her respective affiliates

or associates, or others acting in concert with such nominee(s), on the other hand, including all information that would be required to be disclosed pursuant to Item 404 of Regulation S-K under the Exchange Act if the stockholder or beneficial owner (or affiliate or associate thereof or person acting in concert therewith) were the “registrant” for purposes of such Item and the proposed nominee were a director or executive officer of such registrant;

(D) a description of any significant direct or indirect equity interests in any principal competitor of the Company held by such stockholder, such beneficial owner or any of their respective affiliates or associates or other acting in concert therewith;

(E) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nominate the person(s) named in its notice;

(F) a description of any material pending or threatened legal proceedings involving the Corporation, or any of its respective directors or officers, to which such stockholder, such beneficial owner or any of its or their respective affiliates or associates is a party;

(G) a representation as to whether the stockholder or the beneficial owner, if any, intends to be or is part of a group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least sixty-seven percent (67%) of the Corporation's outstanding capital stock in accordance with Rule 14a-19 (or any successor provision) under the Exchange Act, or such larger percentage required to approve or adopt the proposal or elect the nominee, and to solicit proxies from stockholders in support of such proposal or nomination;

(H) a completed and signed questionnaire for such stockholder or beneficial owner referenced in paragraph Section 1.11(d) of these Bylaws and a signed certification of the statements (to the extent relating to such stockholder or beneficial owner) set forth in Section 1.11(c) of these Bylaws;

(I) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) under the Exchange Act or an amendment pursuant to Rule 13d-2(a) under the Exchange Act if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such stockholder, such beneficial owner and their respective affiliates or associates, or others acting in concert therewith; and

(J) any other information relating to such stockholder and beneficial owner, if any, as a nominating stockholder or beneficial owner, 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 Exchange Act.

(c) By delivering notice pursuant to Section 1.11(b) of these Bylaws, a stockholder represents and warrants that all information contained in its notice, as of the deadline for submitting the notice, is true, accurate and complete in all respects, contains no false or misleading statements and such stockholder acknowledges that it intends for the Corporation and the Board of Directors to rely on such information as (i) being true, accurate and complete in all respects and (ii) not containing any false or misleading statements. If the information submitted pursuant to Section 1.11(b) of these Bylaws by any stockholder proposing a nomination or other business for consideration at a meeting of stockholders shall not be true, correct and complete in all respects prior to the deadline for submitting notice, such information may be deemed not to have been provided in accordance with Section 1.11(b) of these Bylaws.

(d) The Corporation may require that any proposed nominee and any stockholder or beneficial owner who is nominating such nominee or on whose behalf such nomination is being made furnish such other information as the Corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation or whether such nominee would be independent under applicable Securities and Exchange Commission

and stock exchange rules and the Corporation's corporate governance guidelines as posted on its website or to assist the Board of Directors in its evaluation of the nominee and the nomination. In addition, to be eligible to be a nominee by a stockholder for election or reelection as a director of the corporation, both the nominee and each stockholder and beneficial owner who is nominating such nominee or on whose behalf such nomination is being made must complete and deliver (in accordance with the time periods described for delivery of notice under Section 1.11(b) of these Bylaws) to the Secretary at the principal executive offices of the corporation, both (i) a written questionnaire with respect to the identity, background and qualification of such proposed nominee and the identity and background of such stockholder or beneficial owner (which questionnaire shall be provided by the Secretary upon written request) and (ii) a representation and agreement to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation, or that could be material to a reasonable stockholder's understanding of the independence and other qualifications, or lack thereof, of such proposed nominee.

(e) Not later than 10 days after the record date for the meeting, the information required by Section 1.11(b) of these Bylaws shall be supplemented by the stockholder giving the notice to provide updated information as of the record date.

(f) The stockholder giving notice shall promptly notify the Corporation if it fails to satisfy any of the requirements set forth in Rule 14a-19 (or any successor provision) under the Exchange Act. A stockholder shall not have complied with Section 1.11(b) of these Bylaws if the stockholder (or beneficial owner, if any, on whose behalf the nomination is made) solicits or does not solicit, as the case may be, proxies or votes in support of such stockholder's nominee in contravention of the representations with respect thereto required by Section 1.11(b) of these Bylaws or Rule 14a-19 (or any successor provision) under the Exchange Act. If a stockholder provides notice pursuant to Rule 14a-19(b) (or any successor provision) under the Exchange Act, such stockholder shall deliver to the Corporation, no later than five business days prior to the applicable meeting of stockholders, reasonable written evidence that it has met the requirements of Rule 14a-19(a)(3) (or any successor provision) under the Exchange Act. Unless otherwise required by law, if any stockholder provides notice pursuant to Rule 14a-19 (or any successor provision) under the Exchange Act and subsequently fails to comply with any of the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) (or any successor provisions) under the Exchange Act, then the Corporation shall disregard any proxies or votes solicited for such nominees and such nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 1.11, a stockholder shall also comply with all applicable requirements of state and federal law, including the Exchange Act, the Certificate of Incorporation and these Bylaws with respect to any nomination set forth in this Section 1.11.

(g) Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for exclusive use by the Board of Directors.

(h) Notwithstanding anything in Section 1.11(b) of these Bylaws to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement specifying the size of the increased Board of Directors made by the Corporation at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by Section 1.11(b) of these Bylaws 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 of the Corporation at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(i) 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 pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors or any committee thereof or (ii) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in Section 1.11(b) of these Bylaws, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.11(b) of these Bylaws. Nominations by stockholders of persons for election to the Board of Directors may be made at such a special meeting of stockholders if the stockholder's written notice required by Section 1.11(b) of these Bylaws shall be delivered to the Secretary of the Corporation at the principal executive

offices of the Corporation, not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) 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. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(j) Only those persons who are nominated in accordance with the procedures set forth in Section 1.11(b) or in Section 1.12 of these Bylaws shall be eligible for election as directors at any meeting of stockholders. Only such nominations and other 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 1.11 or Section 1.12 of these Bylaws. The chair of the meeting shall have the power and duty to determine whether a nomination or any other business proposed to be brought before the meeting was made in accordance with the procedures set forth in Section 1.11(b) or Section 1.12 of these Bylaws, as appropriate, and, if any proposed nomination or other business is not in compliance with Section 1.11(b) or Section 1.12 of these Bylaws, as appropriate, to declare that such defective proposal shall be disregarded. Notwithstanding the foregoing provisions of this Section 1.11 and the provisions of Section 1.12 of these Bylaws, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or other proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of Section 1.11(b) and Section 1.12 of these Bylaws, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders. Further, and notwithstanding anything to the contrary set forth in Section 1.12 of these Bylaws, if a Proxy Access Nominee and/or the applicable Eligible Stockholder shall have breached its or their agreements, representations, undertakings and/or obligations pursuant to Section 1.12, as determined by the Board of Directors or the chair of the meeting, the chair of the meeting shall be entitled to declare the nomination by the Eligible Stockholder to be invalid, and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(k) The number of nominees a stockholder may nominate for election at a meeting of stockholders (or in the case of a stockholder giving notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at a meeting of stockholders on behalf of a beneficial owner) shall not exceed the number of directors to be elected at such meeting.

(l) For purposes of this Section 1.11 and Section 1.12 of these Bylaws, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press, Reuters, Business Wire or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission (the "SEC") pursuant to Section 9, 13, 14 or 15(d) of the Exchange Act. For purposes of this Section 1.11, the terms "affiliate" and "associate" (and the plural forms thereof) shall have the meanings ascribed to them under the Exchange Act.

(m) Notwithstanding the foregoing provisions of this Section 1.11 and the provisions of Section 1.12 of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 1.11 and Section 1.12 of these Bylaws. Nothing in this section 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 or of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

Section 1.12. *Proxy Access.* (a) Subject to the provisions of this Section 1.12, the Corporation shall include in its proxy statement (including its form of proxy) for an annual meeting of stockholders the name of any stockholder nominee for election to the Board of Directors submitted pursuant to this Section 1.12 (each, a "Proxy Access Nominee") provided (i) timely written notice of such Proxy Access Nominee satisfying this Section 1.12 ("Proxy Access Notice") is delivered to the Corporation by or on behalf of a stockholder or stockholders that, at the time the

Proxy Access Notice is delivered, satisfy the ownership and other requirements of this Section 1.12 (such stockholder or stockholders, and any person on whose behalf they are acting, the “Eligible Stockholder”), (ii) the Eligible Stockholder expressly elects in writing at the time of providing the Proxy Access Notice to have its nominee included in the Corporation’s proxy statement pursuant to this Section 1.12, and (iii) the Eligible Stockholder and the Proxy Access Nominee otherwise satisfy the requirements of this Section 1.12 and the director qualifications requirements set forth in the Corporation’s Corporate Governance Guidelines and any other documents setting forth qualifications for directors.

(b) To be timely, a Proxy Access Notice must be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation by the close of business not less than one hundred twenty (120) days nor more than one hundred fifty (150) days prior to the date on which the Corporation first mailed its proxy materials for the prior year’s annual meeting of stockholders; provided, however, that in the event that the date of the annual meeting is advanced by more than thirty (30) days or delayed (other than as a result of adjournment) by more than thirty (30) days from the anniversary of the previous year’s annual meeting, a Proxy Access Notice to be timely must be delivered not later than the close of business on the later of the one hundred twentieth (120th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of any adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a Proxy Access Notice as described above.

(c) In addition to including the name of the Proxy Access Nominee in the Corporation’s proxy statement for the annual meeting, the Corporation also shall include (i) the information concerning the Proxy Access Nominee and the Eligible Stockholder that is required to be disclosed in the Corporation’s proxy statement pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder and (ii) if the Eligible Stockholder so elects, a Statement (as defined below) (collectively, the “Required Information”). Nothing in this Section 1.12 shall limit the Corporation’s ability to solicit against and include in its proxy statement its own statements relating to any Proxy Access Nominee.

(d) The number of Proxy Access Nominees (including Proxy Access Nominees that were submitted by an Eligible Stockholder for inclusion in the Corporation’s proxy statement pursuant to this Section 1.12 but either are subsequently withdrawn or that the Board of Directors decides to nominate (a “Board Nominee”)) appearing in the Corporation’s proxy statement with respect to a meeting of stockholders shall not exceed the greater of (i) two or (ii) 20% of the number of directors in office as of the last day on which a Proxy Access Notice may be delivered pursuant to this Section 1.12 (the “Final Proxy Access Nomination Date”) or, if such amount is not a whole number, the closest whole number below 20% (the “Permitted Number”); provided, however, that in the event that one or more vacancies for any reason occurs on the Board of Directors at any time after the Final Proxy Access Nomination Date and before the date of the applicable annual meeting of stockholders and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Permitted Number shall be calculated based on the number of directors in office as so reduced. In the event that the number of Proxy Access Nominees submitted by Eligible Stockholders pursuant to this Section 1.12 exceeds the Permitted Number, each Eligible Stockholder shall select one Proxy Access Nominee for inclusion in the Corporation’s proxy statement until the Permitted Number is reached, going in order of the amount (greatest to least) of the Corporation’s capital stock entitled to vote on the election of directors as disclosed in the Proxy Access Notice. If the Permitted Number is not reached after each Eligible Stockholder has selected one Proxy Access Nominee, this selection process shall continue as many times as necessary, following the same order each time, until the Permitted Number is reached.

(e) An Eligible Stockholder must have owned (as defined below) continuously for at least three years a number of shares that represents 3% or more of the Corporation’s outstanding shares of capital stock entitled to vote in the election of directors (the “Required Shares”) as of both the date the Proxy Access Notice is delivered to or received by the Corporation in accordance with this Section 1.12 and the record date for determining stockholders entitled to vote at the meeting and must continue to own the Required Shares through the meeting date. For purposes of satisfying the ownership requirement under this Section 1.12, the shares of the Corporation’s capital stock owned by one or more stockholders, or by the person or persons who own shares of the Corporation’s capital stock and on whose behalf any stockholder is acting, may be aggregated, provided that (i) the number of stockholders and other persons whose ownership of shares is aggregated for such purpose shall not exceed 20, (ii) each stockholder or other person whose shares are aggregated shall have held such shares continuously for at least three years, and (iii) a group

of two or more funds that are (A) under common management and investment control, (B) under common management and funded primarily by the same employer (or by a group of related employers that are under common control), or (C) a “group of investment companies,” as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, shall be treated as one stockholder or person for this purpose. Whenever an Eligible Stockholder consists of a group of stockholders and/or other persons, any and all requirements and obligations for an Eligible Stockholder set forth in this Section 1.12 must be satisfied by and as to each such stockholder or other person, except that shares may be aggregated to meet the Required Shares as provided in this Section 1.12. With respect to any one particular annual meeting, no stockholder or other person may be a member of more than one group of persons constituting an Eligible Stockholder under this Section 1.12.

(f) For purposes of this Section 1.12, an Eligible Stockholder shall be deemed to “own” only those outstanding shares of the Corporation’s capital stock as to which the person possesses both (i) the full voting and investment rights pertaining to the shares and (ii) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (x) sold by such person or any of its affiliates in any transaction that has not been settled or closed, (y) borrowed by such person or any of its affiliates for any purposes or purchased by such person or any of its affiliates pursuant to an agreement to resell, or (z) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such person or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation’s capital stock, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (A) reducing in any manner, to any extent or at any time in the future, such person’s or affiliates’ full right to vote or direct the voting of any such shares, and/or (B) hedging, offsetting or altering to any degree gain or loss arising from the full economic ownership of such shares by such person or affiliate. A person shall “own” shares held in the name of a nominee or other intermediary so long as the person retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. A person’s ownership of shares shall be deemed to continue during any period in which (i) the person has loaned such shares, provided that the person has the power to recall such loaned shares on five business days’ notice and provides a representation that it will promptly recall such loaned shares upon being notified that any of its Proxy Access Nominees will be included in the Corporation’s proxy statement, or (ii) the person has delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement that is revocable at any time by the person. The terms “owned,” “owning” and other variations of the word “own” shall have correlative meanings. For purposes of this Section 1.12, the term “affiliate” shall have the meaning ascribed thereto in the regulations promulgated under the Exchange Act.

(g) An Eligible Stockholder must provide with its Proxy Access Notice the following information in writing to the Secretary of the Corporation: (i) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period) verifying that, as of a date within seven calendar days prior to the date the Proxy Access Notice is delivered to or received by the Corporation, the Eligible Stockholder owns, and has owned continuously for the preceding three years, the Required Shares, and the Eligible Stockholder’s agreement to provide (A) within five business days after the record date for the meeting, written statements from the record holder and intermediaries verifying the Eligible Stockholder’s continuous ownership of the Required Shares through the record date and (B) immediate notice if the Eligible Stockholder ceases to own any of the Required Shares prior to the date of the applicable annual meeting of stockholders; (ii) documentation satisfactory to the Corporation demonstrating that a group of funds qualifies to be treated as one stockholder or person for purposes of this Section 1.12; (iii) a representation that the Eligible Stockholder (including each member of any group of stockholders that together is an Eligible Stockholder hereunder): (A) intends to continue to own the Required Shares through the date of the annual meeting, (B) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control of the Corporation, and does not presently have such intent, (C) has not nominated and will not nominate for election to the Board of Directors at the meeting any person other than the Proxy Access Nominee(s) being nominated pursuant to this Section 1.12, (D) has not engaged and will not engage in, and has not and will not be, a “participant” in another person’s “solicitation” within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the meeting other than its Proxy Access Nominee(s) or a Board Nominee, (E) will not distribute to any stockholder any form of proxy for the meeting other than the form distributed by the Corporation, and (F) has provided and will provide facts, statements and other information in all communications with the

Corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; (iv) the written consent of each Proxy Access Nominee to be named in the Corporation's proxy statement as a nominee and to serve as a director if elected; (v) a copy of the Schedule 14N that has been filed with the SEC as required by Rule 14a-18 under the Exchange Act; (vi) the information required to be provided by Section 1.11(b) of these Bylaws, as applicable; (vii) in the case of a nomination by a group of stockholders that together is an Eligible Stockholder, the designation by all group members of one group member that is authorized to act on behalf of all members of the nominating stockholder group with respect to the nomination and matters related thereto, including withdrawal of the nomination; and (viii) an undertaking that the Eligible Stockholder agrees to (A) assume all liability stemming from any legal or regulatory violation arising out of the Eligible Stockholder's communications with the Corporation's stockholders or out of the information that the Eligible Stockholder provides to the Corporation, (B) indemnify and hold harmless the Corporation and each of its directors, officers and employees individually against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Eligible Stockholder pursuant to this Section 1.12, (C) file with the SEC any solicitation or other communication with the Corporation's stockholders relating to the meeting at which the Proxy Access Nominee will be nominated, regardless of whether any such filing is required under Section 14 of the Exchange Act and the rules and regulations promulgated thereunder or whether any exemption from filing is available for such solicitation or other communication under Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, and (D) comply with all other applicable laws, rules, regulations and listing standards with respect to any solicitation in connection with the meeting.

(h) The Eligible Stockholder may include with its Proxy Access Notice, a written statement for inclusion in the Corporation's proxy statement for the meeting, not to exceed 500 words, in support of the Proxy Access Nominee's candidacy (the "Statement"). Notwithstanding anything to the contrary contained in this Article 1, the Corporation may omit from its proxy statement any information or Statement that it believes would violate any applicable law, rule, regulation or listing standard.

(i) Each Proxy Access Nominee must:

(i) provide within five business days of the Corporation's request an executed agreement, in a form deemed satisfactory to the Corporation, that (A) the Proxy Access Nominee has read and agrees to adhere to the Corporation's Corporate Governance Guidelines and any other Corporation policies and guidelines applicable to directors, including with regard to securities trading, (B) the Proxy Access Nominee is not and will not become a party to any Voting Commitment that has not been disclosed to the Corporation or that that could limit or interfere with the nominee's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, and (C) the Proxy Access Nominee is not and will not become a party to (1) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification (a "Compensation Arrangement") in connection with such person's nomination or candidacy for director that has not been disclosed to the Corporation, or (2) any Compensation Arrangement in connection with such person's service or action as a director;

(ii) complete, sign and submit all questionnaires required of the Corporation's Board of Directors within five business days of receipt of each such questionnaire from the Corporation; and

(iii) provide within five business days of the Corporation's request such additional information as the Corporation determines may be necessary to permit the Board of Directors to determine whether such Proxy Access Nominee meets the requirements of this Section 1.12 and/or the Corporation's requirements with regard to director qualifications and policies and guidelines applicable to directors, including whether (A) such Proxy Access Nominee is independent under the listing standards of each U.S. exchange upon which the capital stock of the Corporation is listed, any applicable rules of the SEC, and any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the directors (the "Independence Standards"), (B) such Proxy Access Nominee has any direct or indirect relationship with the Corporation, and (C) such Proxy Access Nominee is not and has not been subject to (1) any event specified in Item 401(f) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act"), or (2) any order of the type specified in Rule 506(d) of Regulation D under the Securities Act.

(j) In the event that any information or communications provided by the Eligible Stockholder or Proxy Access Nominee to the Corporation or its stockholders ceases to be true and correct in any respect or omits a fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, each Eligible Stockholder or Proxy Access Nominee, as the case may be, shall promptly notify the Secretary of the Corporation of any such inaccuracy or omission in such previously provided information and of the information that is required to make such information or communication true and correct; it being understood that providing any such notification shall not be deemed to cure any defect or limit the Corporation's right to omit a Proxy Access Nominee from its proxy materials as provided in this Section 1.12.

(k) The Corporation shall not be required to include, pursuant to this Section 1.12, a Proxy Access Nominee in its proxy statement (or, if the proxy statement has already been filed, to allow the nomination of a Proxy Access Nominee, notwithstanding that proxies in respect of such vote may have been received by the Corporation) (i) for any meeting for which the Secretary of the Corporation receives a notice that any stockholder has nominated a person for election to the Board of Directors pursuant to Section 1.11(b) , (ii) if the Eligible Stockholder who has nominated such Proxy Access Nominee has nominated for election to the Board of Directors at the meeting any person other than pursuant to this Section 1.12, or has or is engaged in, or has been or is a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the meeting other than its Proxy Access Nominee(s) or a Board Nominee, (iii) who is not independent under the Independence Standards, (iv) whose election as a member of the Board of Directors would violate or cause the Corporation to be in violation of these bylaws, the Corporation's certificate of incorporation, the Corporation's Corporate Governance Guidelines or other document setting forth qualifications for directors, the listing standards of each exchange upon which the Corporation's capital stock is listed, or any applicable state or federal law, rule or regulation, (v) if the Proxy Access Nominee is or becomes a party to any undisclosed Voting Commitment, (vi) if the Proxy Access Nominee is or becomes a party to any undisclosed Compensation Arrangement in connection with such person's nomination or candidacy for director or prohibited Compensation Arrangement in connection with such person's service or action as a director, (vii) who is or has been, within the past three years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, (viii) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten years, (ix) who is subject to any order of the type specified in Rule 506(d) of Regulation D under the Securities Act, or (x) if such Proxy Access Nominee or the applicable Eligible Stockholder shall have provided information to the Corporation in respect of such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading or shall have breached its or their agreements, representations, undertakings and/or obligations pursuant to this Section 1.12.

(l) Any Proxy Access Nominee who is included in the Corporation's proxy statement for a particular meeting of stockholders but either withdraws from or becomes ineligible or unavailable for election at the meeting shall be ineligible to be included in the Corporation's proxy statement as a Proxy Access Nominee pursuant to this Section 1.12 for the next annual meeting of stockholders following the meeting for which the Proxy Access Nominee has been nominated for election.

Section 1.13. *Construction.* In the event of any conflict between the provisions of these Bylaws as in effect from time to time and the provisions of the Certificate of Incorporation of the Corporation as in effect from time to time, the provisions of such Certificate of Incorporation shall be controlling. The Board of Directors shall have the exclusive power and authority to interpret the provisions of these Bylaws and make all determinations deemed necessary or advisable in connection therewith, except to the extent otherwise expressly provided in these Bylaws or the Certificate of Incorporation or pursuant to applicable law. The Board of Directors may, if the facts warrant, determine that a notice received by the Corporation relating to a nomination proposed to be made or an item of business proposed to be introduced at a meeting of stockholders does not satisfy the requirements of Section 1.11 or Section 1.12 of these Bylaws, as applicable (including if the stockholder does not provide any required applicable updates to the Corporation). The Board of Directors shall have the power and duty to determine whether a nomination or any other business brought before a meeting of stockholders was made in accordance with the procedures set forth

in Section 1.11 or Section 1.12 of these Bylaws, as applicable, and to determine that any defective nomination or proposal shall be disregarded (including as a withdrawal of a nominee), notwithstanding that proxies in respect of such matters may have been received. Any and all such actions, interpretations and determinations that are taken or made by the Board of Directors in good faith pursuant to this Section 1.13 shall be conclusive and binding on all persons, including the Corporation and all record or beneficial owners of stock of the Corporation.

ARTICLE 2
BOARD OF DIRECTORS

Section 2.01. *Number; Qualifications.* The Board of Directors shall consist of three or more members, the number thereof to be determined from time to time by resolution of the Board of Directors. Directors need not be stockholders.

Section 2.02. *Election; Resignation; Removal; Vacancies.* Each director shall hold office until the next annual meeting of stockholders and until his or her successor is elected and qualified, or until his or her earlier resignation or removal. Any director may resign at any time upon notice in writing or by electronic transmission to the Corporation. Subject to the rights of any holders of preferred stock then outstanding, (i) any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, and (ii) any vacancy occurring in the Board of Directors for any cause, and any newly created directorship resulting from any increase in the authorized number of directors to be elected by all stockholders having the right to vote as a single class, may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, or by the stockholders. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Section 2.03. *Regular Meetings.* Regular meetings of the Board of Directors may be held at such places, within or without the State of Delaware, or by means of remote communication, and at such times as the Board of Directors may from time to time determine. Notice of regular meetings need not be given if the date, times and places thereof are fixed by resolution of the Board of Directors.

Section 2.04. *Special Meetings.* Special meetings of the Board of Directors may be called by the Chair of the Board, a CEO or the Board of Directors and may be held at any time, date or place, within or without the State of Delaware, or by means of remote communication, as the person or persons calling the meeting shall fix. Notice of the time, date and place of such meeting shall be given by the person or persons calling the meeting to all directors at least four (4) days before the meeting if the notice is mailed, or at least 24 hours before the meeting if such notice is given by telephone, hand delivery, electronic transmission, facsimile or similar communication method. Unless otherwise indicated in the notice, any and all business may be transacted at a special meeting.

Section 2.05. *Meetings by Remote Communication Permitted.* Members of the Board of Directors, or any committee of the Board, may participate in a meeting of the Board or such committee by means of conference telephone or other remote communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to conference telephone or other remote communications equipment shall constitute presence in person at such meeting.

Section 2.06. *Quorum; Vote Required For Action.* At all meetings of the Board of Directors a majority of the total number of authorized directors shall constitute a quorum for the transaction of business. Except as otherwise provided herein or required by law, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 2.07. *Organization.* Meetings of the Board of Directors shall be presided over by the Chair of the Board, or in his or her absence by the CEO, or in his or her absence by a chair chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chair of the meeting may appoint any person to act as secretary of the meeting.

Section 2.08. *Written Action By Directors.* Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board or

such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 2.09. *Powers.* The Board of Directors may, except as otherwise required by law, exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

Section 2.10. *Compensation of Directors.* Directors, as such, may receive, pursuant to a resolution of the Board of Directors, fees and other compensation for their services as directors, including, without limitation, their services as members of committees of the Board of Directors.

ARTICLE 3 COMMITTEES

Section 3.01. *Committees.* The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meetings and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent provided in a 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 that may require it; but no such committee shall have the power or authority in reference to (a) amending the Certificate of Incorporation (except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the Board of Directors as provided in subsection (a) of Section 151 of the Delaware General Corporation Law, fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution and distribution of assets of the Corporation, or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the Corporation, or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series), (b) adopting an agreement of merger or consolidation under Sections 251 or 252 of the Delaware General Corporation Law other than when no vote of the stockholders of the Corporation is required to approve the merger or consolidation under Sections 251 or 252 of the Delaware General Corporation Law, (c) recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, (d) recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, (e) amending the Bylaws of the Corporation, or (f) approving or adopting, or recommending to the stockholders of the Corporation, any action or matter (other than the election or removal of directors) expressly required by Chapter 1 of the Delaware General Corporation Law to be submitted to a vote of stockholders; and unless the resolution of the Board of Directors expressly so provides, no such committee shall have the power or authority to declare a dividend, authorize the issuance of stock or adopt a certificate of ownership and merger pursuant to Section 253 of the Delaware General Corporation Law.

Section 3.02. *Committee Rules.* Unless the Board of Directors otherwise provides, each committee designated by the Board may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article 2 of these Bylaws.

ARTICLE 4 OFFICERS

Section 4.01. *Generally.* The officers of the Corporation shall consist of one or more Chief Executive Officers, one or more Presidents, one or more Vice Presidents, a Principal Financial Officer, a Treasurer, a Secretary and such other officers, including a Chair of the Board of Directors, as may from time to time be appointed by the Board of Directors. Officers shall be elected by the Board of Directors. Each officer shall hold office until his or her

successor is elected and qualified or until his or her earlier resignation or removal. Any number of offices may be held by the same person. Any officer may resign at any time upon notice in writing or by electronic transmission to the Corporation. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board of Directors.

Section 4.02. *Chief Executive Officer (CEO)*. Subject to the provisions of these Bylaws and to the direction of the Board of Directors, the CEO of the Corporation or, if the Board of Directors has approved more than one CEO, each CEO shall have the responsibility for the general management and control of the business and affairs of the Corporation and shall perform all duties and have all powers that are commonly incident to the office of chief executive or that are delegated to him or her by the Board of Directors. He or she shall have power to sign all stock certificates, contracts and other instruments of the Corporation that are authorized and shall have general supervision and direction of all of the duties, employees and agents of the Corporation.

Section 4.03. *President*. Each President shall have such powers and duties as may be delegated to him or her by the Board of Directors. A President may be designated by the Board to perform the duties and exercise the powers of the CEO in the event of the CEO's absence or disability.

Section 4.04. *Vice President*. Each Vice President shall have such powers and duties as may be delegated to him or her by the Board of Directors. A Vice President may be designated by the Board to perform the duties and exercise the powers of the President in the event of the President's absence or disability.

Section 4.05. *Principal Financial Officer (PFO)*. The PFO of the Corporation shall have the responsibility for maintaining the financial records of the Corporation. He or she shall render from time to time an account of the financial condition of the Corporation. The PFO shall also perform such other duties as the Board of Directors may from time to time prescribe.

Section 4.06. *Treasurer*. The Treasurer shall have custody of all monies and securities of the Corporation. He or she shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions. The Treasurer shall also perform such other duties as the Board of Directors may from time to time prescribe.

Section 4.07. *Secretary*. The Secretary shall issue or cause to be issued all authorized notices for, and shall keep, or cause to be kept, minutes of, all meetings of the stockholders and the Board of Directors. He or she shall have charge of the corporate books and shall perform such other duties as the Board of Directors may from time to time prescribe.

Section 4.08. *Delegation of Authority*. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

Section 4.09. *Removal*. Any officer of the Corporation may be removed at any time, with or without cause, by the Board of Directors. Such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation.

ARTICLE 5

STOCK

Section 5.01. *Certificates*. The shares of the Corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by the Chair of the Board of Directors, or the President (or CEO) or a Vice President, and by the Treasurer (or PFO) or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the Corporation, certifying the number of shares owned by such stockholder in the Corporation. Any or all of the signatures on the certificate may be a facsimile.

Section 5.02. *Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates.* The Corporation may issue a new certificate of stock in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 5.03. *Other Regulations.* The issue, transfer, conversion and registration of stock certificates shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE 6 INDEMNIFICATION

Section 6.01. *Indemnification of Officers and Directors.* Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation (including any constituent corporation absorbed in a merger) or, while a director or officer of the Corporation, is or was serving at the request of the Corporation (including any such constituent corporation) as a director, officer or employee of another corporation, or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the Delaware General Corporation Law, as the same exists or may hereafter be amended, against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that the Corporation shall indemnify any such person seeking indemnity in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

Section 6.02. *Advance of Expenses.* The Corporation shall pay all expenses incurred by such a director or officer in defending any such proceeding as they are incurred in advance of its final disposition; provided, however, that if the Delaware General Corporation Law then so requires, the payment of such expenses incurred by a director or officer in advance of the final disposition of such proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it should be determined ultimately that such director or officer is not entitled to be indemnified under this Article 6 or otherwise; and provided further that the Corporation shall not be required to advance any expenses to a person against whom the Corporation brings a claim, in a proceeding, for breach of the duty of loyalty to the Corporation, for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law or for any transaction from which such person derived an improper personal benefit.

Section 6.03. *Non-exclusivity of Rights.* The rights conferred on any person in this Article 6 shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaw, agreement, vote or consent of stockholders or disinterested directors or otherwise.

Section 6.04. *Indemnification of Contracts.* The Board of Directors is authorized to cause the Corporation to enter into a contract with any director, officer or employee of the Corporation, or any person serving at the request of the Corporation as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing for indemnification rights equivalent to or, if the Board of Directors so determines, greater than, those provided for in this Article 6.

Section 6.05. *Insurance.* The Corporation shall maintain insurance, at its expense, to the extent it determines such to be reasonably available, to protect itself, its officers and directors and any other persons the Board of Directors may select, against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6.06. *Effect of Amendment.* Any amendment, repeal or modification of any provision of this Article 6 by the stockholders or the Directors of the Corporation shall be prospective only, and shall not adversely affect any right or protection conferred on a person pursuant to this Article 6 and existing at the time of such amendment, repeal or modification.

ARTICLE 7
NOTICES

Section 7.01. *Notice.* Except as otherwise specifically provided herein or required by law, all notices required to be given pursuant to these Bylaws shall be in writing and may in every instance be effectively given by hand delivery (including use of a courier service), by depositing such notice in the mail, postage prepaid, or by sending such notice by electronic transmission or facsimile. Any such notice shall be addressed to the person to whom notice is to be given at such persons address as it appears on the records of the Corporation. The notice shall be deemed given (i) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (ii) in the case of delivery by mail, when deposited in the mail, and (iii) in the case of delivery via electronic delivery or facsimile, when dispatched.

Section 7.02. *Waiver of Notice.* Any written waiver of notice, signed by the person entitled to notice or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice.

ARTICLE 8
INTERESTED DIRECTORS

Section 8.01. *Interest and Directors; Quorum.* No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose if: (i) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; (ii) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof, or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorizes the contract or transaction.

ARTICLE 9
MISCELLANEOUS

Section 9.01. *Fiscal Year.* The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

Section 9.02. *Seal.* The Board of Directors may provide for a corporate seal, which shall have the name of the Corporation inscribed thereon and shall otherwise be in such form as may be approved from time to time by the Board of Directors.

Section 9.03. *Form of Records.* Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept in electronic form or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 9.04. *Reliance Upon Books and Records.* A member of the Board of Directors of the Corporation, or a member of any committee designated by the Board of Directors, shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or reports made to the Corporation by any of its officers, or by an independent certified public accountant, or by an appraiser selected with reasonable care by the Board of Directors or by any such committee, or in relying in good faith upon other records of the Corporation.

Section 9.05. *Certificate of Incorporation Governs.* In the event of any conflict between the provisions of the Corporation's Certificate of Incorporation and Bylaws, the provisions of the Certificate of Incorporation shall govern.

Section 9.06. *Severability.* If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Corporation's Certificate of Incorporation, then such provision shall nonetheless be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation shall remain in full force and effect.

Section 9.07. *Derivative Action.* The sole and exclusive forum for any actual or purported derivative action brought on behalf of the Corporation shall be the Court of Chancery in the State of Delaware.

ARTICLE 10 AMENDMENT

Section 10.01. *Amendments.* The stockholders of the Corporation shall have the power to adopt, amend or repeal Bylaws. The Board of Directors of the Corporation shall also have the power to adopt, amend or repeal Bylaws of the Corporation, except Bylaws adopted by the stockholders that specify that they cannot be amended or repealed by the Board of Directors.

**ORACLE CORPORATION AMENDED AND RESTATED
2020 EQUITY INCENTIVE PLAN**
(As approved by the stockholders on November 15, 2023)

1. **PURPOSE.** The purpose of this Plan is to provide incentives to attract, retain and motivate eligible persons whose present and potential contributions are important to the success of the Company, and its Affiliates, by offering them an opportunity to participate in the Company's future performance through the grant of Awards. Capitalized terms not defined elsewhere in the text are defined in Section 27 of this Plan.

2. **SHARES SUBJECT TO THE PLAN.**

2.1 **Number of Shares Available.** Subject to Sections 2.5 and 2.6 and any other applicable provisions hereof, the aggregate number of Shares that have been reserved for grant and issuance under the Plan is equal to the sum of: (i) 90 million Shares previously approved by stockholders on November 4, 2020 (the "**Original Effective Date**"), plus (ii) 300 million additional Shares added in connection with an amendment of the Plan, which was approved by stockholders on November 10, 2021, plus (iii) 350 million additional Shares added in connection with an amendment of the Plan, which was approved by stockholders on November 15, 2023, plus (iv) the number of Shares that were unissued and available for grant under the 2000 Plan on the Original Effective Date, plus (v) the number of Shares subject to any stock awards granted under the 2000 Plan that are outstanding as of the Original Effective Date which, after the Original Effective Date, would have been available again for issuance under the terms of the 2000 Plan had this Plan not become effective ("**Forfeited Prior Plan Awards**"), provided that Shares subject to Forfeited Prior Plan Awards other than Options or SARs will increase the number of Shares that are available for grant and issuance under the Plan by 2.5 times the number of Shares subject to such Forfeited Prior Plan Awards.

2.2 **Share Conversion Ratio.** Any Shares that are subject to Options, SARs or other Awards that are not Full-Value Awards shall be counted against the numerical limits of Section 2.1 as one Share for every Share subject thereto. Any Shares subject to Full-Value Awards on the date of grant shall be counted against the numerical limits of Section 2.1 as 2.5 Shares for every one Share subject thereto. To the extent that a Share that was subject to an Award that counted as 2.5 Shares against the Plan reserve pursuant to the preceding sentence is recycled back into the Plan under Section 2.3, the Plan shall be credited with 2.5 Shares.

2.3 **Lapsed, Returned Awards.** Except as otherwise may be provided for herein, Shares subject to Awards, and Shares issued under the Plan under any Award, will again be available for grant and issuance in connection with subsequent Awards under this Plan to the extent such Shares: (a) are subject to issuance upon exercise of an Option or SAR granted under this Plan but which cease to be subject to the Option or SAR for any reason other than due to the exercise of the Option or SAR or the withholding or tendering of shares to satisfy any related tax withholding obligations; (b) are subject to Awards granted under this Plan that are forfeited or are repurchased by the Company at the original issue price; or (c) are subject to Awards granted under this Plan that otherwise terminate without such Shares being issued. Except with respect to Shares of Restricted Stock that are forfeited rather than vesting, Shares that have actually been issued under the Plan under any Award will not be returned to the Plan and will not become available for future distribution under the Plan. To the extent an Award under the Plan is paid out in cash rather than Shares, such cash payment will not result in reducing the number of Shares available for issuance under the Plan. The full number of Shares subject to a SAR granted under the Plan that are to be settled by the issuance of Shares shall be counted against the number of Shares available for award under the Plan, regardless of the number of Shares actually issued upon settlement of such SAR. Shares used to pay the exercise price or Purchase Price of an Award, to satisfy the tax withholding obligations related to an Award and Shares repurchased by the Company from the Participant with the proceeds of an Option exercise will not become available for future grant or sale under the Plan. The Shares available for issuance under the Plan may be authorized and issued Shares or treasury Shares. For the avoidance of doubt, Shares that otherwise become available for grant and issuance because of the provisions of this Section 2.3 shall not include Shares subject to Awards that were granted pursuant to Section 2.7 hereof or Shares subject to Awards that are cancelled or exchanged (other than for cash) under an Exchange Program.

2.4 **Minimum Share Reserve.** At all times the Company shall reserve and keep available a sufficient number of Shares as shall be required to satisfy the requirements of all outstanding Awards granted under this Plan.

2.5 **Limitations.** Subject to adjustment as provided in Section 2.6, no more than 25,000,000 Shares shall be issued pursuant to the exercise of ISOs. No ISOs may be granted after the tenth (10th) anniversary of the earlier of (i) the date the Plan is adopted by the Board, or (ii) the date the Plan is approved by the stockholders of the Company. Subject to adjustment as provided in Section 2.6, no Participant shall be granted within any fiscal year of the Company, one or more Options or SARs, which in the aggregate are for more than 25,000,000 Shares under the Plan. Subject to adjustment as provided in Section 2.6, no Participant shall be granted within any fiscal year of the Company, one or more Awards other than Options or SARs, which in the aggregate are for more than 10,000,000 Shares under the Plan.

2.6 Adjustment of Shares. Except as would result in taxation under Section 409A of the Code, if the number of outstanding Shares is adjusted by a stock dividend, extraordinary cash dividend that has a material effect on the price of the Shares, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification or similar change in the capital structure of the Company, without consideration, then (a) the number of Shares reserved for issuance and future grant under the Plan set forth in Section 2.1, (b) the Exercise Prices of and number of Shares subject to outstanding Options and SARs, (c) the number of Shares subject to other outstanding Awards, (d) the maximum number of Shares that may be issued as ISOs set forth in Section 2.5, and (e) the maximum number of Shares that may be granted pursuant to Awards to a Participant in any one fiscal year set forth in Section 2.5, shall be proportionately adjusted, subject to any required action by the Board or the stockholders of the Company and in compliance with applicable securities laws; provided that in the event the adjustment would result in a fraction of a Share, the Company reserves the right to round up or down to the nearest whole Share or settle such fraction of a Share in cash, taking into consideration applicable laws and accounting guidance.

2.7 Assumption or Substitution of Awards by the Company. The Company, from time to time, also may substitute or assume outstanding awards granted by another company, whether in connection with an acquisition of such other company or otherwise, by either: (a) assuming such award under this Plan or (b) granting an Award under this Plan in substitution of such other company's award. Such assumption or substitution will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other company had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another company, subject to the requirements of Section 409A of the Code, the Purchase Price or the Exercise Price, as the case may be, and the number and nature of Shares issuable upon exercise or settlement of any such Award will be adjusted appropriately. In the event the Company elects to grant a new Option in substitution rather than assuming an existing option, such new Option may be granted with a similarly adjusted Exercise Price. Any awards that are assumed or substituted under this Plan shall not reduce the number of Shares authorized for grant under the Plan or authorized for grant to a Participant in any fiscal year.

3. ELIGIBILITY, MINIMUM VESTING AND CHANGE IN TIME COMMITMENT.

3.1 ISOs may be granted only to Employees. All other Awards may be granted to Employees (including Employees who are Directors) and Consultants of the Company or any Affiliate; provided such Consultants render bona fide services not in connection with the offer and sale of securities in a capital-raising transaction.

3.2 All Awards granted under the Plan must be subject to a minimum one-year vesting period following grant, with no portion of any Award vesting prior to the end of such one-year vesting period; provided, however, that up to 5% of the Shares available for future distribution under this Plan may be granted pursuant to Awards without such minimum vesting requirement and such requirement shall not prevent the acceleration of vesting pursuant to Sections 4 and 19 hereof or under policies or contracts that provide for acceleration of vesting in connection with a Change of Control or termination of employment or services. In addition, any awards assumed or substituted in connection with an acquisition under Section 2.7 shall not be subject to this minimum vesting requirement.

3.3 In the event a Participant's regular level of time commitment in the performance of his or her services for the Company and any an Affiliate of the Company is reduced (for example, and without limitation, if the Participant is an Employee of the Company and the Employee has a change in status from a full-time Employee to a part-time Employee or takes an extended leave of absence) after the date of grant of any Award to the Participant, subject to applicable law, the Committee or an authorized Officer of the Company has the right in its sole discretion to (x) make a corresponding reduction in the number of Shares or cash amount subject to any portion of such Award that is scheduled to vest or become payable after the date of such change in time commitment, (y) in lieu of or in combination with such a reduction, suspend and/or extend the vesting or payment schedule applicable to such Award, except that in no event may an Award be exercised after the expiration of the term set forth in the applicable Award Agreement; or (z) not act and thereby, retain the original vesting schedule and number of Shares. In the event of any such reduction, suspension or extension, the Participant will have no right with respect to any portion of the Award that is so reduced, suspended or extended.

4. ADMINISTRATION.

4.1 Committee Composition; Authority. This Plan will be administered by the Committee or by the Board acting as the Committee. Subject to the general purposes, terms and conditions of this Plan, and the direction of the Board, the Committee will have full power to implement and carry out this Plan. The Committee will have the authority to:

- (a) construe and interpret this Plan, any Award Agreement and any other agreement or document executed pursuant to this Plan;
- (b) prescribe, amend and rescind rules and regulations relating to this Plan or any Award;
- (c) select persons to receive Awards;
- (d) determine the form and terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder. Such terms and conditions include, but are not limited to, the exercise price, the time or times when Awards may vest and be exercised (which may be based on Performance Goals), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Award or the Shares relating thereto, based in each case on such factors as the Committee will determine;

- (e) determine the number of Shares or other consideration subject to Awards;
- (f) determine the Fair Market Value in good faith, if necessary;
- (g) subject to Section 16, determine whether Awards will be granted singly, in combination with, in tandem with, in replacement of, or as alternatives to, other Awards under this Plan or any other incentive or compensation plan of the Company or any Affiliate of the Company;
- (h) grant waivers of Plan or Award conditions;
- (i) determine the vesting, exercisability and payment of Awards;
- (j) correct any defect, supply any omission or reconcile any inconsistency in this Plan, any Award or any Award Agreement;
- (k) determine whether an Award has been earned;
- (l) subject to Section 16, determine the terms and conditions of any, and to institute any Exchange Program;
- (m) reduce or waive any criteria with respect to Performance Goals;
- (n) adjust Performance Goals to take into account changes in law or in accounting or tax rules, or such other extraordinary, unforeseeable, nonrecurring or infrequently occurring events or circumstances as the Committee deems necessary or appropriate to avoid windfalls or hardships;
- (o) waive any conditions or rights under, amend any term of, or amend, alter, suspend, discontinue or terminate, any Award granted under this Plan, prospectively or retroactively; provided, however, that no such action shall materially impair the rights of any affected Participant or holder or beneficiary under any Award theretofore granted under the Plan without the consent of any relevant Participant or holder or beneficiary of an Award; and
- (p) make all other determinations necessary or advisable for the administration of this Plan.

4.2 Delegation to an Officer. To the extent permitted by applicable law and listing requirements, the Committee or the Board may delegate to one or more officers of the Company who may be (but are not required to be) Insiders ("**Officers**"), the authority to do any of the following (i) designate Employees who are not Insiders to be recipients of Awards, (ii) determine the number of Shares to be subject to such Awards granted to such designated Employees, and (iii) take any and all actions on behalf of the Committee other than any actions that affect the amount or form of compensation of Insiders or have material tax, accounting, financial, human resource or legal consequences to the Company or its Affiliates; provided, however, that the Committee or Board resolutions regarding any delegation with respect to (i) and (ii) will specify the total number of Shares that may be subject to the Awards granted by such Officer and that such Officer may not grant an Award to himself or herself. Any Awards will be granted on the form of Award Agreement most recently approved for use by the Committee or the Board, unless otherwise provided in the resolutions approving the delegation authority.

4.3 Committee Interpretation and Discretion. Any determination made by the Committee with respect to any Award shall be made in its sole discretion at the time of grant of the Award or, unless in contravention of any express term of the Plan or Award, at any later time, and such determination shall be final and binding on the Company and all persons having an interest in any Award under the Plan. Any dispute regarding the interpretation of the Plan or any Award Agreement shall be submitted by the Participant to the Company for review. Any Officer of the Company, including but not limited to Insiders and the Company's Secretary and Assistant Secretary, shall have the authority to review and resolve disputes with respect to Awards held by Participants who are not Insiders, and such resolution shall be final and binding on the Company and the Participant. Only the Committee shall have the authority to review and resolve disputes with respect to Awards held by Participants who are Insiders, and such resolution shall be final and binding on the Company and the Participant.

4.4 Administration of Awards Subject to Performance Goals. The Committee will, in its sole discretion, determine the Performance Goals, if any, applicable to any Award (including any adjustment(s) thereto that will be applied in determining the achievement of such Performance Goals) on or prior to the Determination Date. The Performance Goals may differ from Participant to Participant and from Award to Award. The Committee shall determine and approve the extent to which such Performance Goals have been timely achieved and the extent to which the Shares subject to such Award have thereby been earned.

4.5 Section 16 of the Exchange Act. Awards granted to Participants who are Insiders must be approved by two or more "non-employee directors" of the Board (as defined in the regulations promulgated under Section 16 of the Exchange Act).

4.6 Documentation. The Award Agreement for a given Award, the Plan and any other documents may be delivered to, and accepted by, a Participant or any other person in any manner (including electronic distribution or posting) determined by the Company.

5. **OPTIONS**. The Committee may grant Options to Participants and will determine whether such Options will be Incentive Stock Options within the meaning of the Code ("**ISOs**") or Nonqualified Stock Options ("**NQSOs**"), the number of Shares subject to the Option, the Exercise Price of the Option, the period and circumstances during which the Option may be exercised, and all other terms and conditions of the Option, subject to the following:

5.1 **Option Grant**. Each Option granted under this Plan will identify the Option as an ISO or an NQSO. An Option may (but need not) be awarded or vest based on, among other things, satisfaction of such Performance Goals during any Performance Period as are set out in advance in the Participant's individual Award Agreement. If the Option vests based on the satisfaction of Performance Goals, then the Committee will: (x) determine the nature, length and starting date of any Performance Period for each Option; (y) select the Performance Criteria to be used to measure the performance; and (z) determine what additional vesting conditions, if any, should apply. Performance Periods may overlap, and Participants may participate simultaneously with respect to Options that are subject to different Performance Goals and other criteria.

5.2 **Date of Grant**. The date of grant of an Option will be the date on which the Committee makes the determination to grant such Option, or a specified future date. The Award Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the Option.

5.3 **Exercise Period**. Options may be exercisable within the times or upon the conditions as set forth in the Award Agreement governing such Option; provided, however, that no Option will be exercisable after the expiration of seven (7) years from the date the Option is granted, unless the Committee provides otherwise; and provided further that no ISO granted to a person who, at the time the ISO is granted, directly or by attribution owns more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any Affiliate of the Company ("**Ten Percent Stockholder**") will be exercisable after the expiration of five (5) years from the date the ISO is granted. The Committee also may provide for Options to become exercisable at one time or from time to time, periodically or otherwise, in such number of Shares or percentage of Shares as the Committee determines.

5.4 **Exercise Price**. The Exercise Price of an Option will be determined by the Committee when the Option is granted; provided that: (i) the Exercise Price of an Option will be not less than one hundred percent (100%) of the Fair Market Value of the Shares on the date of grant and (ii) the Exercise Price of any ISO granted to a Ten Percent Stockholder will not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant, except in each case, with respect to an Option that is assumed or substituted under Section 2.7. Payment for the Shares purchased may be made in accordance with Section 10 of the Plan and the applicable Award Agreement and in accordance with any procedures established by the Company.

5.5 **Method of Exercise**. Any Option granted hereunder will be exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Committee and set forth in the Award Agreement. An Option may not be exercised for a fraction of a Share. An Option will be deemed exercised when the Company receives: (i) notice of exercise (in such form as the Committee may specify from time to time) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised (together with applicable withholding taxes). Full payment may consist of any consideration and method of payment authorized by the Committee and permitted by the Award Agreement and the Plan. Shares issued upon exercise of an Option will be issued in the name of the Participant. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made and no dividend equivalent will be credited to a Participant for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 2.6 of the Plan. Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

5.6 **Termination**. The exercise of an Option will be subject to the following (except as may be otherwise provided in an Award Agreement):

(a) If the Participant is Terminated for any reason except for the Participant's death or Disability, then the Participant may exercise such Participant's Options only to the extent that such Options would have been exercisable by the Participant on the Termination Date no later than three (3) months after the Termination Date (or such shorter time period as may be determined by the Committee), but in any event no later than the expiration date of the Options.

(b) If the Participant is Terminated because of the Participant's death (or the Participant dies within three (3) months after the Participant's Termination Date pursuant to Section 5.6(a)), then the Participant's Options may be exercised only to the extent that such Options would have been exercisable by the Participant on the Termination Date and must be exercised by the Participant's legal representative, or authorized assignee, no later than twelve (12) months after the Termination Date (or such shorter time period as may be determined by the Committee), but in any event no later than the expiration date of the Options.

(c) If the Participant is Terminated because of the Participant's Disability, then the Participant's Options may be exercised only to the extent that such Options would have been exercisable by the Participant on the Termination Date and must be exercised by the Participant (or the

Participant's legal representative or authorized assignee) no later than twelve (12) months after the Termination Date (or such shorter time period as may be determined by the Committee) but in any event no later than the expiration date of the Options (with any exercise of an ISO beyond (a) three (3) months after the Termination Date when the Termination is for a Disability that is not a "permanent and total disability" as defined in Section 22(e)(3) of the Code, or (b) twelve (12) months after the Termination Date when the Termination is for a Disability that is a "permanent and total disability" as defined in Section 22(e)(3) of the Code, deemed to be exercise of an NQSO).

5.7 Limitations on Exercise. The Committee may specify a minimum number of Shares that may be purchased on any exercise of an Option, provided that such minimum number will not prevent any Participant from exercising the Option for the full number of Shares for which it is then exercisable.

5.8 Limitations on ISOs. With respect to Awards granted as ISOs, to the extent that the aggregate Fair Market Value of the Shares with respect to which such ISOs are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Affiliate) exceeds one hundred thousand dollars (\$100,000), such Options will be treated as NQSOs. For purposes of this Section 5.8, ISOs will be taken into account in the order in which they were granted. The Fair Market Value of the Shares will be determined as of the time the Option with respect to such Shares is granted. In the event that the Code or the regulations promulgated thereunder are amended after November 15, 2023 to provide for a different limit on the Fair Market Value of Shares permitted to be subject to ISOs, such different limit will be automatically incorporated herein and will apply to any Options granted after the effective date of such amendment.

5.9 Modification or Extension. Subject to Section 409A of the Code (to the extent Section 409A of the Code is applicable to the holder of the Options), the Committee may modify or extend outstanding Options, provided that any such action may not, without the written consent of a Participant, materially impair any of such Participant's rights under any Option previously granted. Any outstanding ISO that is modified, extended, or otherwise altered will be treated in accordance with Section 424(h) of the Code.

6. RESTRICTED STOCK AWARDS.

6.1 Awards of Restricted Stock. A Restricted Stock Award is an award to an eligible person of Shares that are subject to restrictions ("**Restricted Stock**"). The Committee will determine the number of Shares of Restricted Stock that may be issued to or purchased by the Participant, the Purchase Price, if any, the restrictions under which the Shares will be subject and all other terms and conditions of the Restricted Stock Award, subject to the Plan. All Restricted Stock shall be made pursuant to an Award Agreement.

6.2 Purchase Price. The Purchase Price for a Restricted Stock Award, if any, will be determined by the Committee and may be less than Fair Market Value on the date the Restricted Stock Award is granted. Payment of the Purchase Price must be made in accordance with Section 10 of the Plan, the applicable Award Agreement and in accordance with any procedures established by the Company.

6.3 Terms of Restricted Stock Awards. Restricted Stock Awards will be subject to such restrictions as the Committee may impose or are required by law. These restrictions may be based on completion of a specified period of service with the Company or an Affiliate and/or upon completion of Performance Goals, if any, during any Performance Period as set out in advance in the Participant's Award Agreement. Prior to the grant of a Restricted Stock Award, the Committee shall determine: (a) the nature, length and starting date of any restriction period for the Restricted Stock Award; (b) the restrictions on Unvested Shares; and (c) the number of Shares that may be awarded to the Participant. If the Unvested Shares of Restricted Stock are being awarded or earned upon the satisfaction of Performance Goals, then the Committee will: (x) determine the nature, length and starting date of any Performance Period for each Unvested Share; and (y) select the Performance Criteria to be used to measure the performance, if any. Performance Periods may overlap, and a Participant may participate simultaneously with respect to Restricted Stock Awards that are subject to different Performance Periods and having different Performance Goals and other criteria.

6.4 Termination of Participant. Except as may be set forth in the Participant's Award Agreement, vesting ceases on such Participant's Termination Date (unless determined otherwise by the Committee).

7. STOCK BONUS AWARDS.

7.1 Awards of Stock Bonuses. A Stock Bonus Award is an award of Shares to an eligible person without a Purchase Price that is not subject to any restrictions. All Stock Bonus Awards may but are not required to be made pursuant to an Award Agreement.

7.2 Terms of Stock Bonus Awards. The Committee will determine the number of Shares to be awarded to the Participant under a Stock Bonus Award.

7.3 Form of Payment to Participant. Payment may be made in the form of cash, whole Shares, or a combination thereof, based on the Fair Market Value of the Shares subject to the Stock Bonus Award on the date of payment, as determined in the sole discretion of the Committee.

8. STOCK APPRECIATION RIGHTS.

8.1 Awards of SARs. A Stock Appreciation Right (“SAR”) is an award to a Participant that may be settled in cash, or Shares (which may consist of Restricted Stock), having a value equal to (a) the difference between the Fair Market Value on the date of exercise over the Exercise Price multiplied by (b) the number of Shares with respect to which the SAR is being settled (subject to any maximum number of Shares that may be issuable as specified in an Award Agreement). All SARs shall be made pursuant to an Award Agreement.

8.2 Terms of SARs. The Committee will determine the terms of each SAR including, without limitation: (a) the number of Shares subject to the SAR; (b) the Exercise Price and the period and circumstances during which the SAR may be exercised and settled; (c) the consideration to be distributed on settlement of the SAR; and (d) the effect of the Participant’s Termination on each SAR. The Exercise Price of the SAR will be determined by the Committee when the SAR is granted and may not be less than one hundred percent (100%) of the Fair Market Value of the Shares on the date of grant. A SAR may be awarded or may vest based on, among other things, satisfaction of Performance Goals, during any Performance Period as are set out in advance in the Participant’s individual Award Agreement. If the SAR vests based on the satisfaction of Performance Goals, then the Committee will: (x) determine the nature, length and starting date of any Performance Period for each SAR; (y) select from among the Performance Criteria to be used to measure the performance; and (z) determine what additional vesting conditions, if any, should apply. Performance Periods may overlap, and Participants may participate simultaneously with respect to SARs that are subject to different Performance Goals and other criteria.

8.3 Exercise Period and Expiration Date. A SAR will be exercisable within the times or upon the occurrence of events determined by the Committee and set forth in the Award Agreement governing such SAR. The SAR Agreement shall set forth the expiration date; provided that no SAR will be exercisable after the expiration of seven (7) years from the date the SAR is granted unless the Committee provides otherwise. The Committee may also provide for SARs to become exercisable at one time or from time to time, periodically or otherwise (including, without limitation, upon the attainment during a Performance Period of Performance Goals), in such number of Shares or percentage of the Shares subject to the SAR as the Committee determines. Except as may be set forth in the Participant’s Award Agreement, vesting ceases on such Participant’s Termination Date (unless determined otherwise by the Committee). Notwithstanding the foregoing, the rules of Section 5.6 also will apply to SARs.

8.4 Form of Settlement. Upon exercise of a SAR, a Participant will be entitled to receive payment from the Company in an amount determined by multiplying (i) the difference between the Fair Market Value of a Share on the date of exercise over the Exercise Price; times (ii) the number of Shares with respect to which the SAR is exercised. At the discretion of the Committee, the payment from the Company for the SAR exercise may be in cash, in Shares of equivalent value, or in some combination thereof.

8.5 Termination of Participation. Except as may be set forth in the Participant’s Award Agreement, vesting ceases on such Participant’s Termination Date (unless determined otherwise by the Committee).

9. RESTRICTED STOCK UNITS.

9.1 Awards of Restricted Stock Units. A Restricted Stock Unit Award is an award to a Participant of units (“RSUs”), each of which shall correspond to a Share that may be settled in cash, or by issuance of a Share (which may consist of Restricted Stock). All RSUs shall be granted pursuant to an Award Agreement.

9.2 Terms of RSUs. The Committee will determine the terms of a Restricted Stock Unit Award, including, without limitation: (a) the number of Shares subject to the Restricted Stock Unit Award; (b) the time or times during which the RSUs may be settled; and (c) the consideration to be distributed on settlement, and the effect of the Participant’s Termination on the RSUs. A Restricted Stock Unit Award may be awarded or vest based on, among other things, satisfaction of such Performance Goals during any Performance Period as are set out in advance in the Participant’s Award Agreement. If RSUs vest based upon satisfaction of Performance Goals, then the Committee will: (w) determine the nature, length and starting date of any Performance Period for the RSUs; (x) select from among the Performance Criteria to be used to measure the performance; (y) determine what additional vesting conditions, if any, should apply; and (z) determine the number of Shares deemed subject to the Restricted Stock Unit Award. Performance Periods may overlap and Participants may participate simultaneously with respect to Restricted Stock Unit Awards that are subject to different Performance Periods and different Performance Goals and other criteria.

9.3 Form and Timing of Settlement. Payment of vested RSUs shall be made as soon as practicable after the date(s) determined by the Committee and set forth in the Award Agreement. The Committee, in its sole discretion, may settle vested RSUs in cash, Shares, or a combination of both. The Committee may also permit a Participant to defer payment under a Restricted Stock Unit Award to a date or dates after the RSUs are vested provided that the terms of the Restricted Stock Unit Award and any deferral satisfy the requirements of Section 409A of the Code (and/or other applicable tax laws that may be applicable to the Participant).

9.4 Termination of Participant. Except as may be set forth in the Participant’s Award Agreement, vesting ceases on such Participant’s Termination Date (unless determined otherwise by the Committee).

10. PAYMENT FOR SHARE PURCHASES.

Payment from a Participant for Shares purchased pursuant to this Plan may be made in cash or by check or, where expressly approved for the Participant by the Committee and where permitted by law (and to the extent not otherwise set forth in the applicable Award Agreement):

- (a) by cancellation of indebtedness of the Company to the Participant;
- (b) by surrender of Shares held by the Participant that have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which said Award will be exercised or settled;
- (c) by waiver of compensation due or accrued to the Participant for services rendered or to be rendered to the Company or an Affiliate of the Company;
- (d) by consideration received by the Company pursuant to a broker-assisted or other form of cashless exercise program implemented by the Company in connection with the Plan;
- (e) by any combination of the foregoing; or
- (f) by any other method of payment as is permitted by applicable law.

11. TAXES.

11.1 Taxes Generally. Whenever a taxable or tax withholding event occurs in relation to an Award granted under this Plan, the Participant shall be responsible for any U.S. federal, state, and local and any non-U.S. income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax-related items that are applicable to the Participant as a result of participation in the Plan.

11.2 Withholding Arrangements. The Committee, in its sole discretion and pursuant to such procedures as it may specify from time to time, may require or permit a Participant to satisfy any withholding obligation the Company or an Affiliate may have with respect to such tax-related items, in whole or in part, by (without limitation) (i) paying cash, (ii) using proceeds from the sale of Shares delivered pursuant to the exercise or settlement of the Award, (iii) electing to have the Company withhold otherwise deliverable cash or Shares having a Fair Market Value equal to the amount required to be withheld under applicable tax laws, subject to applicable accounting guidance, or (iii) delivering to the Company already-owned Shares having a Fair Market Value equal to the amount required to be withheld under applicable tax laws, subject to applicable accounting guidance. The Fair Market Value of the Shares to be withheld or delivered will be determined based on such methodology that the Company deems to be reasonable and in accordance with applicable law.

12. TRANSFERABILITY. Unless determined otherwise by the Committee, an Award may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution. If the Committee makes an Award transferable, including, without limitation, by instrument to an inter vivos or testamentary trust in which the Awards are to be passed to beneficiaries upon the death of the trustor (settlor) or by gift to a Permitted Transferee, such Award will contain such additional terms and conditions as the Administrator deems appropriate; provided, however, that in no event may any Award be transferred for consideration to a third-party financial institution.

13. PRIVILEGES OF STOCK OWNERSHIP; RESTRICTIONS ON SHARES.

13.1 Stockholder and Dividend Rights. No Participant will have any of the rights of a stockholder with respect to any Shares until the Shares are issued to the Participant. Any Participant who holds Shares issued under the Plan shall have the same voting, dividend and other rights as the Company's other stockholders; provided however, that in the case of any unvested Award or unvested portion thereof (including but not limited to Unvested Shares of Restricted Stock), the Participant shall not be entitled to any dividends and other distributions paid or distributed by the Company on an equivalent number of vested Shares. Notwithstanding the foregoing, at the Committee's discretion, such Participant may be credited with dividends and other distributions in the case of any Unvested Shares of Restricted Stock, provided that such dividends and other distributions (or any related earnings or interest on such dividends or distributions, if the Committee in its sole discretion provides for such payments) shall not be paid or distributed to the Participant unless, until and only to the extent such Shares vest. The value of dividends and other distributions (or any related earnings or interest, if applicable) payable or distributable with respect to any Unvested Shares of Restricted Stock that do not vest shall be forfeited.

13.2 Dividend Equivalent Rights. Subject to applicable law, the Committee in its sole discretion may credit to each Participant who holds an Award other than Restricted Stock, Options and SARs, in the form of dividend equivalents or otherwise, an amount equal to the value of all dividends and other distributions (whether in cash or other property) paid or distributed by the Company on an equivalent number of Shares, which may either be paid in cash or increase the number of Shares subject to the Award; provided, however, that such Participant will not be paid any such dividend equivalents (or any related earnings or interest on such dividends or distributions, if the Committee in its sole discretion provides for such payments) unless, until and only to the extent that the underlying Award vests. The value of dividend equivalents (or any related earnings or interest, if applicable) payable with respect any Award or any portion thereof that does not vest shall be forfeited.

13.3 No Dividend or Dividend Equivalent Rights on Options or SARs. For the avoidance of doubt, no dividends, dividend equivalents or similar entitlements may be credited with respect to Options and SARs.

14. CERTIFICATES AND BOOK ENTRIES. All certificates or book entries for Shares or other securities delivered under this Plan will be subject to such stop transfer orders, legends and other restrictions as the Committee may deem necessary or advisable, including restrictions under any applicable U.S. federal and state or foreign securities or other laws, or any rules, regulations and other requirements of the SEC or any stock exchange or automated quotation system upon which the Shares may be listed or quoted.

15. ESCROW; PROHIBITION ON LOANS. To enforce any restrictions on a Participant's Shares, the Committee may require the Shares to be held in book entry form with the restrictions on such Shares duly noted or, alternatively, require the Participant to deposit with the Company or an agent designated by the Company (or place under the control of the Company or its designated agent) all certificates representing Shares, together with stock powers or other instruments of transfer approved by the Committee, appropriately endorsed in blank, for the purpose of holding in escrow (or controlling) such certificates until such restrictions have lapsed or terminated, and the Committee may cause a legend or legends referencing such restrictions to be placed on the certificates or note in the Company's direct registration system for stock issuance and transfer such restrictions and accompanying legends with respect to the book entries. No Participant will be permitted to execute a promissory note as partial or full consideration for the purchase of Shares.

16. STOCKHOLDER APPROVAL OF REPRICING. The Committee shall not without the approval of the stockholders of the Company, (i) reduce the Exercise Price of any previously granted Option or SAR, (ii) cancel any previously granted Option or SAR in exchange for another Option or SAR with a lower Exercise Price or (iii) cancel any previously granted Option or SAR in exchange for cash or another award if the Exercise Price of such Option or SAR exceeds the Fair Market Value of a Share on the date of such cancellation, in each case, other than in connection with a Change of Control or the adjustment provisions set forth in Section 2.6.

17. SECURITIES LAW AND OTHER REGULATORY COMPLIANCE. An Award will not be effective unless such Award is in compliance with all applicable U.S. federal and state securities laws and any foreign securities, exchange control and other laws, the rules and regulations of any governmental body and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates or establish book entries for Shares under this Plan prior to: (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable; and/or (b) completion of any registration or other qualification of such Shares under any U.S. state or federal law or any foreign law or the ruling or other decision of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the registration, qualification or listing requirements of any state securities laws or foreign securities, exchange control or other laws, stock exchange or automated quotation system, and the Company will have no liability for any inability or failure to do so.

18. NO OBLIGATION TO EMPLOY. Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue in the employ of, or to continue any other relationship with, the Company or any Affiliate or limit in any way the right of the Company or any Affiliate to terminate Participant's employment or other relationship at any time.

19. CHANGE OF CONTROL.

19.1 Assumption or Substitution of Awards. Unless otherwise provided in the Award Agreement or any other written agreement between the Company or any Affiliate and the Participant or unless otherwise expressly provided by the Committee at the time of grant of an Award, in the event of a Change of Control, any or all outstanding Awards may be assumed or substituted by the surviving or acquiring corporation for equivalent Awards, which assumption or substitution shall be binding on all Participants. If an Award is assumed or substituted as set forth above, and the Participant's employment is terminated by the surviving or acquiring corporation without Cause within twelve (12) months after the consummation of such Change of Control, such assumed or substituted Award shall accelerate and, if applicable, become immediately and fully exercisable, and any repurchase or resale restrictions applicable to any such Award shall automatically lapse, upon such termination.

19.2 No Assumption or Substitution of Awards. Unless otherwise provided in the Award Agreement or any other written agreement between the Company or any Affiliate and the Participant or unless otherwise expressly provided by the Committee at the time of grant of an Award, in the event such surviving or acquiring corporation does not agree to assume or substitute any Awards, as provided above, pursuant to a Change of Control, then notwithstanding any other provision in this Plan to the contrary, all unvested Awards that are not assumed or substituted, whether subject to time or performance-based vesting conditions, will vest in full at or prior to the effective time of the Change of Control as determined by the Committee, contingent upon the closing of the Change of Control; provided, however, that any payout in connection with a terminated Award shall comply with Section 409A of the Code to the extent necessary to avoid taxation thereunder. In addition, in the event such surviving or acquiring corporation refuses to assume or substitute any Options and/or SARs, the Company will notify the Participants who are holders of such Options and/or SARs in writing or electronically that such Awards will be exercisable for a period of time determined by the Committee in its sole discretion, and such Awards will terminate upon the expiration of such period.

19.3 **Performance Goals.** Unless otherwise provided in the Award Agreement or any other written agreement between the Company or any Affiliate and the Participant or unless otherwise expressly provided by the Committee at the time of grant of an Award, in the event of a Change of Control, any Award subject to Performance Goals shall either vest based on: (i) target performance being deemed to have been achieved or (ii) the actual level of performance for the applicable Performance Period as determined by the Committee, depending on whichever of (i) or (ii) results in a greater number of Shares that vest; provided however, that any Award subject to Performance Goals, which is assumed or substituted pursuant to Section 19.1, shall continue to be subject to any service requirement that applies to such Award.

20. **GOVERNING LAW.** This Plan and all Awards granted hereunder shall be governed by and construed in accordance with the laws of the State of Delaware in the United States, without regard to such state's conflict of laws rules.

21. **AMENDMENT OR TERMINATION OF PLAN.** The Board may at any time terminate or amend this Plan in any respect, including, without limitation, amend any form of Award Agreement or instrument to be executed pursuant to this Plan; provided, however, that the Board will not, without the approval of the stockholders of the Company, amend this Plan in any manner where stockholder approval is necessary or required as determined by the Committee; provided further, that a Participant's Award shall be governed by the version of this Plan then in effect at the time such Award was granted unless such Plan amendment will not adversely affect the rights of such Participant under any outstanding Award in a material way.

22. **NON-U.S. PARTICIPANTS.** Notwithstanding any provision of the Plan to the contrary, to comply with the laws in countries outside the United States in which the Company and its Affiliates operate or in which Participants work or reside, the Committee, in its sole discretion, shall have the power and authority to: (i) determine which Participants outside the United States will be eligible to participate in the Plan; (ii) modify the terms and conditions of any Award granted to Participants outside the United States; (iii) establish sub-plans and modify exercise procedures and other terms and procedures and rules, to the extent such actions may be necessary or advisable, including adoption of rules, procedures or sub-plans applicable to particular Affiliates or Participants in particular locations; provided that no such sub-plans and/or modifications shall take precedence over Section 2 of the Plan or otherwise require stockholder approval; and (iv) take any action, before or after an Award is granted, that it deems advisable to obtain approval or comply with any necessary local governmental regulatory exemptions or approvals. Without limiting the generality of the foregoing, the Committee is specifically authorized to adopt rules, procedures and sub-plans with provisions that limit or modify rights on eligibility to receive an Award under the Plan or on death, disability, retirement or other termination of employment, available methods of exercise or settlement of an Award, payment of income, social insurance contributions and payroll taxes, the shifting of employer tax or social insurance contribution liability to the Participant, the withholding procedures and handling of any Share certificates or other indicia of ownership. Notwithstanding the foregoing, the Committee may not take any actions hereunder, and no Awards shall be granted, that would violate applicable laws.

23. **NONEXCLUSIVITY OF THE PLAN.** Neither the adoption of this Plan by the Board, the submission of this Plan to the stockholders of the Company for approval, nor any provision of this Plan will be construed as creating any limitations on the power of the Board to adopt such additional compensation arrangements as it may deem desirable, including, without limitation, the granting of stock awards and bonuses otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

24. **INSIDER TRADING POLICY.** Each Participant who receives an Award shall comply with any policy adopted by the Company from time to time covering transactions in the Company's securities by Employees, officers and/or directors of the Company.

25. **OTHER POLICIES.** Each Award may be subject to the terms and conditions of any other policy (and any amendments thereto) adopted by the Company from time to time, which may include any policy related to the vesting or transfer of equity awards. Whether any such policy will apply to a particular Award may depend, among other things, on when the Award was granted, whom the Award was granted to, and the type of Award.

26. **ALL AWARDS SUBJECT TO ANY COMPANY CLAWBACK OR RECOUPMENT POLICY.** All Awards shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy that may be adopted by the Committee from time to time or as may be required by law. In addition to any other remedies available under such policy and applicable law, the Committee may also require the cancellation of a Participant's outstanding Awards if such Participant's employment is terminated for Cause.

27. **DEFINITIONS.** As used in this Plan, and except as elsewhere defined herein, the following terms will have the following meanings:

"2000 Plan" means the Company's Amended and Restated 2000 Long-Term Equity Incentive Plan.

"Affiliate" means any Parent or Subsidiary of the Company.

“Award” means any award under the Plan, including any Option, Restricted Stock Award, Stock Bonus Award, Stock Appreciation Right or Restricted Stock Unit Award.

“Award Agreement” means, with respect to each Award, the written or electronic agreement between the Company and the Participant setting forth the terms and conditions of the Award, which shall be in substantially a form (which need not be the same for each Participant) that the Committee has from time to time approved, and will comply with and be subject to the terms and conditions of this Plan.

“Board” means the Board of Directors of the Company.

“Cause” will have the meaning ascribed to such term in any written agreement between the Participant and the Company or an Affiliate defining such term and, in the absence of such agreement, such term means, with respect to a Participant, a good faith and reasonable determination by the Company that the Participant has, during the term of his or her employment with the Company or an Affiliate: (a) been convicted of, or pleaded nolo contendere to, (1) any felony or (2) any other lesser crime involving fraud, embezzlement, or misappropriation; (b) engaged in gross negligence or willful misconduct in the performance of his or her duties; (c) breached any material provision of any agreement entered into with the Company or an Affiliate; (d) misappropriated any (1) material property of the Company or an Affiliate or (2) opportunity of the Company or an Affiliate; (e) failed to materially comply with any written policy or procedure of the Company or an Affiliate; or (f) engaged in an act or omission that results in financial or other harm to the Company or an Affiliate. The determination as to whether a Participant is being terminated for Cause will be made in good faith by the Company and will be final and binding on the Participant.

“Code” means the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Committee” means the Compensation Committee of the Board or those persons to whom administration of the Plan, or part of the Plan, has been delegated as permitted by law.

“Company” means Oracle Corporation, or any successor corporation.

“Common Stock” means the common stock of the Company.

“Consultant” means any person, including an advisor or independent contractor, engaged by the Company or an Affiliate to render services to such entity.

“Change of Control” means the occurrence of any of the following events:

(a) an individual, corporation, partnership, group, associate or other entity or “person”, as such term is defined in Section 14(d) of the Exchange Act, other than the Company or any employee benefit plan(s) sponsored by the Company, is or becomes the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the combined voting power of the Company’s outstanding securities ordinarily having the right to vote at elections of directors;

(b) individuals who constitute the Board of Directors of the Company on the effective date of the Plan (the **“Incumbent Board”**) cease for any reason to constitute at least a majority thereof, provided that any **Approved Director**, as hereinafter defined, shall be, for purposes of this subsection (b), considered as though such person were a member of the Incumbent Board. An **“Approved Director”**, for purposes of this subsection (b), shall mean any person becoming a director subsequent to the effective date of the Plan whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least three-quarters of the directors comprising the Incumbent Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee of the Company for director), but shall not include any such individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 of Regulation 14A promulgated under the Exchange Act) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or “person” other than the Board; or

(c) the consummation of (A) a merger or consolidation involving the Company other than with a wholly-owned subsidiary and other than a merger or consolidation that would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 65% of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation, or (B) a sale, exchange or other disposition of all or substantially all of the assets of the Company.

Notwithstanding the foregoing definition or any other provision of the Plan, the term Change in Control will not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company and the definition of Change in Control (or any analogous term) in an individual written agreement between the Company or any Affiliate and the Participant will supersede the foregoing definition with respect to Awards subject to such agreement; provided, however, that if no definition of Change in Control or any analogous term is set forth in such an individual written agreement, the foregoing

definition will apply. To the extent required for compliance with Section 409A of the Code, in no event will a Change in Control be deemed to have occurred if such transaction is not also a "change in the ownership or effective control of" the Company or "a change in the ownership of a substantial portion of the assets of" the Company as determined under Treasury Regulations Section 1.409A-3(i)(5) (without regard to any alternative definition thereunder). The Committee may, in its sole discretion and without a Participant's consent, amend the definition of "Change in Control" to conform to the definition of "Change in Control" under Section 409A of the Code, and the regulations thereunder.

"Determination Date" means any time when the achievement of the Performance Goals associated with the applicable Performance Period remains substantially uncertain; provided, however, that without limiting the foregoing, that if the Determination Date occurs on or before the date on which 25% of the Performance Period has elapsed, the achievement of such Performance Goals shall be deemed to be substantially uncertain.

"Director" means a member of the Board.

"Disability" means total and permanent disability as defined in Section 22(e)(3) of the Code in the case of ISOs and in the case of other Awards, a Participant's disability, as determined by the Social Security Administration or the long-term disability plan maintained by the Company; provided however, that in the case of Participants residing outside the United States, "Disability" shall have such meaning as determined by the Committee for purposes of the Plan taking into consideration the provisions of applicable laws.

"Employee" means any person, including Officers and Directors, employed by the Company or any Affiliate of the Company. Neither service as a Director nor payment of a director's fee by the Company will be sufficient to constitute "employment" by the Company.

"Exchange Act" means the United States Securities Exchange Act of 1934, as amended.

"Exchange Program" means a program pursuant to which outstanding Awards are surrendered, cancelled or exchanged for cash, the same type of Award or a different Award (or combination thereof).

"Exercise Price" means, with respect to an Option, the price at which a holder may purchase the Shares issuable upon exercise of an Option and with respect to a SAR, the price at which the SAR is granted to the holder thereof.

"Fair Market Value" means, as of any date, the value of a Share determined as follows:

(a) Except as otherwise determined by the Committee as permitted hereunder, if, on such date, the Shares are listed on a national or regional securities exchange or market system, the Fair Market Value of a Share shall be the closing price of a Share as quoted on such national or regional securities exchange or market system constituting the primary market for the Shares, as reported in any such source as the Company deems reliable, and, if there is no such closing price on the date of determination, the Fair Market Value of a Share shall be the closing price of a Share on the next trading day following the day of determination.

(b) Notwithstanding the foregoing, the Committee may, in its discretion, determine the Fair Market Value on the basis of the closing, high, low or average sale price of a Share or the actual sale price of a Share received by a Participant, on such date, the preceding trading day, the next succeeding trading day or an average determined over a period of trading days; provided, however, that, for purposes of determining the exercise price of Options or SARs, the Fair Market Value shall not be less than the Fair Market Value determined under (a). The Committee may vary its method of determination of the Fair Market Value for different purposes under the Plan.

(c) If, on such date, the Shares are not listed on a national or regional securities exchange or market system, the Fair Market Value of a Share shall be as determined by the Committee in good faith.

"Full-Value Awards" means any Awards that result in the Company transferring the full value of any underlying Share granted pursuant to an Award, but shall not include Options and SARs.

"Insider" means an officer or director of the Company or any other person whose transactions in the Company's Common Stock are subject to Section 16 of the Exchange Act.

"Option" means an award of an option to purchase Shares pursuant to Section 5 of the Plan.

"Parent" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if each of such corporations other than the Company owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

"Participant" means a person who holds an Award under this Plan.

"Performance Goals" means one or more performance goals (or combined goals) established by the Committee for the Performance Period based upon the performance criteria selected by the Committee. Any criteria used may be measured, as applicable, (i) in absolute terms, (ii) in relative terms, including, but not

limited to, the passage of time (such as year over year growth) and/or against another company, a comparison group of companies or index designated by the Committee, (iii) on a per-share basis, (iv) against the performance of the Company as a whole or one or more identifiable business units, products, ecosystems, lines of business or segments of the Company, (v) on a pre-tax or after-tax basis, and/or (vi) on a GAAP or non-GAAP basis. The performance goals may include, but are not limited to, the following measures (such criteria, the “**Performance Criteria**”):

- asset turnover;
- billings;
- bookings;
- capacity utilization;
- cash flow, operating cash flow, or cash flow or operating cash flow per share (before or after dividends);
- contract value;
- customer growth;
- data center openings or closings;
- earnings per share;
- EBITDA, including EBITDA growth;
- economic value added;
- gross profit margin;
- intellectual property (e.g., patents)/product development;
- inventory turnover;
- market share;
- mergers and acquisitions or divestitures;
- net income margin;
- net income;
- net or gross sales;
- operating expenses;
- operating income;
- operating profit margin;
- pre-tax income;
- profit;
- profits;
- return on assets;
- return on capital;
- return on equity;
- return on net assets;
- return on sales;
- revenues (including recurring revenues);
- sales growth;
- sales margin (including both growth rates and margin percentages);
- stock price, including market price appreciation of the Company’s stock;
- total stockholder return (on a relative or absolute basis); or

- any other factor (such as individual business objectives, unit-specific operational metrics or individual performance goals) the Committee so designates, provided that such objectives do not result in adverse accounting, tax, reporting or other consequences.

“Performance Period” means the period of time selected by the Committee over which the attainment of one or more Performance Goals will be measured for the purpose of determining a Participant’s right to and the payment of an Award. Performance Periods may be of varying and overlapping duration, at the sole discretion of the Committee.

“Permitted Transferee” means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law (including adoptive relationships) of the Participant, any person sharing the Participant’s household (other than a tenant or employee), a trust in which these persons (or the Participant) have more than 50% of the beneficial interest, a foundation in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than 50% of the voting interests.

“Plan” means this Oracle Corporation Amended and Restated 2020 Equity Incentive Plan, as amended from time to time.

“Purchase Price” means the price to be paid for Shares acquired under the Plan, other than Shares acquired upon exercise of an Option or SAR.

“Restricted Stock Award” means an award of Shares pursuant to Section 6 of the Plan.

“Restricted Stock Unit Award” means an Award granted pursuant to Section 9 of the Plan.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the United States Securities Act of 1933, as amended.

“Shares” means shares of the Company’s Common Stock and any successor security.

“Stock Appreciation Right” means an Award granted pursuant to Section 8 of the Plan.

“Stock Bonus Award” means an Award granted pursuant to Section 7 of the Plan.

“Subsidiary” means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

“Termination” or **“Terminated”** means, for purposes of this Plan with respect to a Participant, that the Participant has for any reason ceased to provide services as an Employee, Consultant or Director. An employee will not be deemed to have ceased to provide services in the case of (i) leaves of absence covered by such policies that are approved by the Committee, (ii) transfers between the Company, an Affiliate, or their successors, or (iii) a change in the capacity in which the Participant renders service to the Company or an Affiliate as an Employee, Consultant or Director. The Committee or an authorized representative of the Company will have sole discretion to determine whether a Participant has ceased to provide services and the effective date on which the Participant ceased to provide services, and such determination may take into consideration whether the Participant continues to actively provide services to the Company or an Affiliate (the **“Termination Date”**). In addition, to the extent required for exemption from or compliance with Section 409A of the Code, the determination of whether there has been a Termination will be made, and such term will be construed, in a manner that is consistent with the definition of “separation from service” as defined under Treasury Regulation Section 1.409A-1(h) (without regard to any alternative definition thereunder).

“Unvested Shares” means Shares that have not yet vested or are subject to a right of repurchase or reacquisition in favor of the Company (or any successor thereto).