

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 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): January 29, 2021**

**TRUPANION, INC.**

(Exact name of registrant as specified in its charter)

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

**001-36537**  
(Commission  
File Number)

**83-0480694**  
(IRS Employer  
Identification No.)

**6100 4th Avenue S, Suite 200**  
**Seattle, Washington 98108**  
(Address of principal executive offices, including zip code)

**(855) 727 - 9079**  
(Registrant's telephone number, including area code)

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

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
Common stock, \$0.00001 par value per share	TRUP	The NASDAQ Stock Market LLC

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

Emerging growth company

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

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

(c)

Effective January 29, 2021, the Board appointed Tricia Plouf (the Company's current Chief Financial Officer) and Margi Tooth (the Company's current Chief Revenue Officer) to the positions of Co-Presidents of the Company (the "*Appointments*"). Ms. Plouf and Ms. Tooth will report to Mr. Rawlings, who no longer serves as President of the Company but remains the Chief Executive Officer of the Company.

In their new capacities, Ms. Tooth will have full responsibility for all of the Company's revenue generating businesses, and Ms. Plouf will have full responsibility for financial and business operations.

Full biographies for Ms. Plouf and Ms. Tooth and their respective compensation are included in the Company's definitive proxy statement filed with the Securities and Exchange Commission on April 28, 2020, which disclosures are incorporated by reference herein, and each is eligible to participate in the Company's programs disclosed elsewhere in this Current Report on Form 8-K.

(e)

On January 29, 2021, the Board adopted an Employee Severance and Change in Control Plan (the "*Plan*") to supersede its On-Going Severance Policy for CEO and Key Senior Leaders and Change of Control Policy for Select Officers and Key Leaders. The Plan standardizes the severance paid to all eligible employees, including executive officers (each, a "*Participant*"), in the event of a qualifying termination. Pursuant to the Plan, a Participant who is terminated without cause is entitled to two weeks of his or her salary for each year of employment with the Company up to a maximum of 26 weeks, plus any earned but unpaid bonuses and one month of medical insurance.

Alternatively, a Participant who is terminated without cause in the period beginning three-months before, and ending on the one-year anniversary of, a change in control is entitled to the greater of his or her salary at the time or as in effect on the first occurrence of a change in control, plus any earned but unpaid bonuses. In addition, all of the Participant's outstanding unvested equity awards shall become fully vested and deemed achieved at target levels of any performance goals or other vesting criteria.

The preceding description of the Plan does not purport to be complete and is qualified in its entirety by reference to the full text of the Plan set forth in Exhibit 10.1 to this Form 8-K and incorporated in this Item by reference.

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

In connection with the Appointments and to accommodate more than one President of the Company, on January 29, 2021 the Board amended and restated the Company's bylaws (the "*Bylaws*").

The amendment and restatement of the Bylaws also include certain technical, conforming, modernizing and clarifying changes. The description above of the amendment and restatement of the Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the Bylaws, as amended and restated, set forth in Exhibit 3.1 to this Form 8-K and incorporated in this Item by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
<a href="#">Exhibit 3.1</a>	Amended and Restated Bylaws of Trupanion, Inc., as of January 29, 2021
<a href="#">Exhibit 10.1</a>	Trupanion, Inc. Employee Severance and Change in Control Plan
104	Cover Page Interactive Data File (formatted as Inline XBRL)

**SIGNATURES**

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

**TRUPANION, INC.**

By: /s/ Tricia Plouf  
Name: Tricia Plouf  
Title: Chief Financial Officer

Date: February 4, 2021

**TRUPANION, INC.**  
a Delaware Corporation

**AMENDED AND RESTATED BYLAWS**

As Adopted ~~July 23,~~ January 29, 2014 ~~2014~~ 2021

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**TRUPANION, INC.**

a Delaware Corporation

**AMENDED AND RESTATED BYLAWS TABLE OF CONTENTS**

**Article I - STOCKHOLDERS**

Section 1.1: Annual Meetings Section 1.2: Special Meetings  
Section 1.3: Notice of Meetings Section 1.4: Adjournments  
Section 1.5: Quorum  
Section 1.6: Organization Section 1.7: Voting; Proxies  
Section 1.8: Fixing Date for Determination of Stockholders of Record Section 1.9: List of  
Stockholders Entitled to Vote  
Section 1.10: Inspectors of Elections  
Section 1.11: Notice of Stockholder Business; Nominations

**Article II - BOARD OF DIRECTORS**

Section 2.1: Number; Qualifications  
Section 2.2: Election; Resignation; Removal; Vacancies Section 2.3: Regular Meetings  
Section 2.4: Special Meetings  
Section 2.5: Remote Meetings Permitted Section 2.6: Quorum; Vote Required  
for Action Section 2.7: Organization  
Section 2.8: Written Action by Directors Section 2.9: Powers  
Section 2.10: Compensation of Directors

**Article III - COMMITTEES**

Section 3.1: Committees Section 3.2: Committee Rules

**Article IV - OFFICERS**

Section 4.1: Generally  
Section 4.2: Chief Executive Officer Section 4.3: Chairperson of the  
Board Section 4.4: President  
Section 4.5: Vice President  
Section 4.6: Chief Financial Officer Section 4.7: Treasurer  
Section 4.8: Secretary  
Section 4.9: Delegation of Authority  
Section 4.10: Removal

---

## **Article V - STOCK**

Section 5.1: Certificates

Section 5.2: Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates or Uncertificated Shares

Section 5.3: Other Regulations

## **Article VI - INDEMNIFICATION**

Section 6.1: Right to Indemnification of Directors and Officers Section 6.2: Advance of Expenses of Directors

Section 6.3: Claims by Directors and Officers

Section 6.4: Indemnification of Employees and Agents

Section 6.5: Advancement of Expenses of Employees and Agents Section 6.6: Non-Exclusivity of Rights

Section 6.7: Insurance

Section 6.8: Amendment or Repeal

## **Article VII - EXCULPATION**

Section 7.1: Exculpation of Directors Section 7.2: Amendment or Repeal

## **Article VIII - NOTICES**

Section 8.1: Notice

Section 8.2: Waiver of Notice

## **Article IX - INTERESTED DIRECTORS**

Section 9.1: Interested Directors Section 9.2: Quorum

## **Article X – MISCELLANEOUS**

Section 10.1: Fiscal Year Section 10.2: Seal

Section 10.3: Form of Records

Section 10.4: Reliance Upon Books and Records Section 10.5: Certificate of Incorporation Governs Section 10.6: Severability

## **Article XI - AMENDMENT**

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TRUPANION, INC.

a Delaware Corporation

**AMENDED AND RESTATED BYLAWS**

As Adopted ~~July 23~~ January 29, 2014 2021

**ARTICLE I: STOCKHOLDERS**

**Section 1.1: Annual Meetings.** An annual meeting of stockholders shall be held for the election of directors and for the transaction of such other business as may properly come before the meeting in accordance with these Bylaws at such date and time as the Board of Directors of the Corporation (the “**Board**”) shall each year fix. The meeting may be held either at a place, within or without the State of Delaware as permitted by the Delaware General Corporation Law (the “**DGCL**”), or by means of remote communication as the Board in its sole discretion may determine. Any proper business may be transacted at the annual meeting.

**Section 1.2: Special Meetings.** Special meetings of stockholders for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, ~~the~~ a President, or the Board acting pursuant to a resolution adopted by a majority of the “**Whole Board**,” which shall mean the total number of authorized directors, whether or not there exist any vacancies in previously authorized directorships. Special meetings may not be called by any other person or persons. The special meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board in its sole discretion may determine.

**Section 1.3: Notice of Meetings.** Notice of all meetings of stockholders shall be given in writing or by electronic transmission in the manner provided by law (including, without limitation, as set forth in Section 8.1.1 of these Bylaws) stating the date, time and place, if any, of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such 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 (the “**Certificate of Incorporation**”), 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 of record entitled to vote at such meeting.

**Section 1.4: Adjournments.** The chairperson of the meeting shall have the power to adjourn the meeting to another time, date and place (if any). Any meeting of stockholders may adjourn from time to time, and notice need not be given of any such adjourned meeting if the time, date and place (if any) thereof and the means of remote communications (if any) by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; *provided, however*, that if the adjournment is for more than thirty (30) days, or if a new record date is fixed for the adjourned meeting, then 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. To the fullest extent permitted by law, the Board may postpone or reschedule any previously scheduled special or annual meeting of stockholders before it is to be held, in which case notice shall be provided to the stockholders of the new date, time and place, if any, of the meeting as provided in Section 1.3 above.

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**Section 1.5: Quorum.** At each meeting of stockholders the holders of a majority of the voting power of the shares of stock entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business, unless otherwise required by applicable law, [the Certificate of Incorporation or these Bylaws](#). Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter, [unless otherwise required by applicable law, the Certificate of Incorporation or these Bylaws](#). If a quorum shall fail to attend any meeting, the chairperson 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 [in the manner provided in Section 1.4](#). 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 are 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 shares of the Corporation's stock held by it in a fiduciary capacity and to count such shares for purposes of determining a quorum. [A quorum, once established, shall not be broken by the subsequent withdrawal of enough votes to leave less than a quorum.](#)

**Section 1.6: Organization.** Meetings of stockholders shall be presided over by such person as the Board may designate, or, in the absence of such a person, the Chairperson of the Board, or, in the absence of such person, ~~the~~ President of the Corporation, or, in the absence of such person, such person as may be chosen by the holders of a majority of the voting power of the shares entitled to vote who are present, in person or by proxy, at the meeting. Such person shall be chairperson of the meeting and, subject to Section 1.10 hereof, 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 such person's absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

**Section 1.7: Voting; Proxies.** Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy. Such a proxy may be prepared, transmitted and delivered in any manner permitted by applicable law. Except as may be required in the Certificate of Incorporation, directors shall be elected by a plurality of the votes ~~east~~ [of the shares represented in person or by proxy at any meeting of stockholders held to elect directors and entitled to vote on such election of directors](#). Unless otherwise provided by applicable law, the rules of any stock exchange upon which the Corporation's securities are listed, the Certificate of Incorporation or these Bylaws, every matter other than the election of directors shall be decided by a majority of the votes cast for or against the matter.

**Section 1.8: 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 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, unless otherwise required by law, the Board may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board and 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

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any other action. If no record date is fixed by the Board, then the record date shall be as provided by applicable law. To the fullest extent permitted 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 may fix a new record date for the adjourned meeting.

**Section 1.9: 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, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either on a reasonably accessible electronic network as permitted by applicable law (provided that the information required to gain access to the list is provided with the notice of the meeting) or during ordinary business hours at the principal place of business of the Corporation (provided, however, that if the record date for determining the stockholders entitled to vote is less than ten days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date). If the meeting is held at a location where stockholders may attend in person, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present at the meeting. If the meeting is held solely by means of remote communication, then the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting. Unless otherwise required by applicable law, the stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger and the list of stockholders or to vote in person or by proxy at any meeting of stockholders.

#### **Section 1.10: Inspectors of Elections.**

1.10.1 Applicability. Unless otherwise required by the Certificate of Incorporation or by the DGCL, the following provisions of this Section 1.10 shall apply only ~~if and~~ when the Corporation has a class of voting stock that is: (a) listed on a national securities exchange; (b) authorized for quotation on an interdealer quotation system of a registered national securities association; or (c) held of record by more than two thousand (2,000) stockholders. In all other cases, observance of the provisions of this Section 1.10 shall be optional, and at the discretion of the Board.

1.10.2 Appointment. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. No person who is a candidate for office at an election may serve as an inspector at such election.

1.10.3 Inspector's Oath. Each inspector of election, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability.

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1.10.4 Duties of Inspectors. At a meeting of stockholders, the inspectors of election shall (a) ascertain the number of shares outstanding and the voting power of each share, (b) determine the shares represented at a meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period of time a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

1.10.5 Opening and Closing of Polls. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery upon application by a stockholder shall determine otherwise.

1.10.6 Determinations. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in connection with proxies in accordance with any information provided pursuant to Section 211(a)(2)(b)(i) or (iii) of the DGCL, or Sections 211(e) or 212(c) (2) of the DGCL, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification of their determinations pursuant to this Section 1.10 shall specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

#### **Section 1.11: Notice of Stockholder Business; Nominations.**

##### **1.11.1 Annual Meeting of Stockholders.**

(a) Nominations of persons for election to the Board and the proposal of business to be considered by the stockholders shall be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of such meeting, (ii) by or at the direction of the Board or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of the notice provided for in this Section 1.11, who is entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 1.11. For the avoidance of doubt, the foregoing clause (iii) shall be the exclusive means for a stockholder to make nominations or propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "*Exchange Act*")), at an annual meeting of stockholders.

(b) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to Section 1.11.1(a):

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(i) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation;

(ii) such other business must otherwise be a proper matter for stockholder action;

(iii) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the Corporation with a Solicitation Notice, as that term is defined in this Section, such stockholder or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the Corporation's voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the Corporation's voting shares reasonably believed by such stockholder or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, have included in such materials the Solicitation Notice; and

(iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section.

To be timely, a stockholder's notice must be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the seventy-fifth (75th) day nor earlier than the close of business on the one hundred and fifth (105th) day prior to the first anniversary of the preceding year's annual meeting (except in the case of the Corporation's first annual meeting following its initial public offering, for which such notice shall be timely if delivered in the same time period as if such meeting were a special meeting governed by Section 1.11.2); *provided, however*, that in the event that the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered (A) no earlier than the close of business on the one hundred and fifth (105th) day prior to currently proposed annual meeting and (B) no later than the close of business on the later of the seventy-fifth (75th) day prior to such annual meeting or the close of business on the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation. Such stockholder's notice shall set forth:

(x) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that would be required to be disclosed in solicitations of proxies for election of directors, or would be otherwise required, in each case pursuant to Regulation 14A under the Exchange Act, including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected;

(y) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and

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(z) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (aa) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (bb) the class and number of shares of the Corporation that are owned beneficially and held of record by such stockholder and such beneficial owner, (cc) 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 any of the foregoing, (dd) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, (ee) 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 nomination and (ff) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of the Corporation's voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Corporation's voting shares to elect such nominee or nominees (an affirmative statement of such intent being a "**Solicitation Notice**"). If requested by the Corporation, the information required under clauses (bb), (cc) and (dd) of this subparagraph (z) shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such information as of the record date.

(c) Notwithstanding anything in the second sentence of Section 1.11.1(b) to the contrary, in the event that the number of directors to be elected to the Board is increased and there is no Public Announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board at least seventy five (75) days prior to the first anniversary of the preceding year's annual meeting (or, if the annual meeting is held more than thirty (30) days before or sixty (60) days after such anniversary date, at least seventy five (75) days prior to such annual meeting), a stockholder's notice required by this Section 1.11 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 office of the Corporation no 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.

1.11.2 Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of such meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of such meeting (a) by or at the direction of the Board or (b) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice of the special meeting, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.11. In the event the Corporation calls a special meeting of

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stockholders for the purpose of electing one or more directors to the Board, any such stockholder may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by Section 1.11.1(b) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation (i) no earlier than the one hundred fifth (105th) day prior to such special meeting and (ii) no later than the close of business on the later of the seventy fifth (75th) 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 to be elected at such meeting.

### 1.11.3 General.

(a) Only such persons who are nominated in accordance with the procedures set forth in this Section 1.11 shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.11. Except as otherwise provided by law or these Bylaws, the chairperson of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 1.11 and, if any proposed nomination or business is not in compliance herewith, to declare that such defective proposal or nomination shall be disregarded.

(b) For purposes of this Section 1.11, the term "**Public Announcement**" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(c) Notwithstanding the foregoing provisions of this Section 1.11, 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 herein. Nothing in this Section 1.11 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.

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## ARTICLE II: BOARD OF DIRECTORS

**Section 2.1: Number; Qualifications.** The Board shall consist of one or more members. The ~~initial~~ number of directors shall be fixed from time to time as set forth in the Certificate of Incorporation. No decrease in the authorized number of directors constituting the Board shall shorten the term of any incumbent director. Directors need not be stockholders of the Corporation.

**Section 2.2: Election; Resignation; Removal; Vacancies.** The directors shall be divided, with respect to the time for which they severally hold office, into classes as provided in the Certificate of Incorporation, and vacancies occurring in the Board and any newly created directorships resulting from any increase in the authorized number of directors shall be filled, as provided in the Certificate of Incorporation. [Any director may resign or may be removed as provided in the Certificate of Incorporation.](#)

**Section 2.3: Regular Meetings.** Regular meetings of the Board may be held at such places, within or without the State of Delaware, and at such times as the Board 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.

**Section 2.4: Special Meetings.** Special meetings of the Board may be called by the Chairperson of the Board, ~~the~~ President or a majority of the members of the Board then in office and may be held at any time, date or place, within or without the State of Delaware, as the person or persons calling the meeting shall fix. Notice of the time, date and place of such meeting shall be given, orally, in writing or by electronic transmission (including electronic mail), 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 twenty-four (24) hours before the meeting if such notice is given by telephone, hand delivery, telegram, telex, mailgram, facsimile, electronic mail or other means of electronic transmission. Unless otherwise indicated in the notice, any and all business may be transacted at a special meeting.

**Section 2.5: Remote Meetings Permitted.** Members of the Board, or any committee of the Board, may participate in a meeting of the Board or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other [and be heard](#), and participation in a meeting pursuant to conference telephone or other communications equipment shall constitute presence in person at such meeting.

**Section 2.6: Quorum; Vote Required for Action.** Subject to the Certificate of Incorporation regarding the ability of members of the Board to fill a vacancy occurring in the Board, a majority of the Whole Board shall constitute a quorum for the transaction of business. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date or time without further notice thereof. Except as otherwise provided herein or in the Certificate of Incorporation, 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.

**Section 2.7: Notices.** [Subject to Section 2.4, Section 2.6, and Section 2.8 hereof, whenever notice is required to be given to any director by applicable law, the Certificate of Incorporation, or these Bylaws, such notice shall be deemed given effectively if given in person or by telephone, mail addressed to such director at such director's address as it appears on the](#)

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records of the Corporation, facsimile, e-mail, or by other means of electronic transmission consistent with the information provided by such director for purposes of such notice.

**Section 2.8: Waiver of Notice.** Whenever notice to directors is required by applicable law, the Certificate of Incorporation, or these Bylaws, a waiver thereof, in writing signed by, or by electronic transmission by the director entitled to the notice, whether before or after such notice is required, shall be deemed equivalent to notice. Attendance by a director at a meeting shall constitute a waiver of notice of such meeting except when the director attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special Board or committee meeting need be specified in any waiver of notice.

**Section 2.79: Organization.** Meetings of the Board shall be presided over by the Chair- person of the Board, or in such person's absence by ~~the~~ President, or in such person's absence by a chairperson chosen by the Board at the meeting. The Secretary shall act as secretary of the meeting, but in such person's absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

**Section 2.82.10: Written Action by Directors.** Any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or 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, respectively, in the minute books of the Corporation. 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 2.92.11: Powers.** The Board may, except as otherwise required by law or the Certificate of Incorporation, exercise all such powers and manage and direct all such acts and things as may be exercised or done by the Corporation.

**Section 2.102: Compensation of Directors.** Members of the Board, as such, may receive, pursuant to a resolution of the Board, fees and other compensation for their services as directors, including without limitation their services as members of committees of the Board.

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### ARTICLE III: COMMITTEES

**Section 3.1: Committees.** The Board may 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 meeting of such committee who are not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent provided in a resolution of the Board, shall have and may exercise all the powers and authority of the Board 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 the following matters: (a) approving, adopting, or recommending to the stockholders any action or matter (other than the election or removal of members of the Board) expressly required by the DGCL to be submitted to stockholders for approval or (b) adopting, amending or repealing any bylaw of the Corporation. Unless the Board provides otherwise, at all meetings of such committee, a majority of the then authorized members of the committee shall constitute a quorum for the transaction of business, and the vote of a majority of the members of the committee present at any meeting at which there is a quorum shall be the act of the committee.

**Section 3.2: Committee Rules.** Unless the Board 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 conducts its business pursuant to Article II of these Bylaws.

### ARTICLE IV: OFFICERS

**Section 4.1: Generally.** The officers of the Corporation shall consist of a Chief Executive Officer (who may be the Chairperson of the Board or ~~the~~ President), a Secretary and a Treasurer and may consist of such other officers, including a Chief Financial Officer and one or more Presidents and Vice Presidents, as may from time to time be appointed by the Board. All officers shall be elected by the Board; *provided, however,* that the Board may empower the Chief Executive Officer of the Corporation to appoint any officer other than the Chairperson of the Board, the Chief Executive Officer, ~~the President~~ any Presidents, the Chief Financial Officer or the Treasurer. The election or appointment of an officer shall not of itself create contract rights as between the Corporation and such officer. Each officer shall hold office until such person's successor is appointed or until such person's earlier resignation, death or removal. Any number of offices may be held by the same person. Any officer may resign at any time upon written notice to the Corporation. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board.

**Section 4.2: Chief Executive Officer.** Subject to the control of the Board and such supervisory powers, if any, as may be given by the Board, the powers and duties of the Chief Executive Officer of the Corporation are:

- (a) To act as the general manager and, subject to the control of the Board, to have general supervision, direction and control of the business and affairs of the Corporation;
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(b) Subject to Article I, Section 1.6, to preside at all meetings of the stockholders;

(c) Subject to Article I, Section 1.2, to call special meetings of the stockholders to be held at such times and, subject to the limitations prescribed by law or by these Bylaws, at such places as he or she shall deem proper;

(d) To affix the signature of the Corporation to all deeds, conveyances, mortgages, guarantees, leases, obligations, bonds, certificates and other papers and instruments in writing which have been authorized by the Board or which, in the judgment of the Chief Executive Officer, should be executed on behalf of the Corporation; to sign certificates for shares of stock of the Corporation; and, subject to the direction of the Board, to have general charge of the property of the Corporation and to supervise and control all officers, agents and employees of the Corporation; and

(e) To vote and otherwise act on, or to authorize any officer to vote or otherwise act on, on behalf of the Corporation, in person or by proxy, at any meeting of stockholders of or with respect to any action of stockholders of any other corporation in which this Corporation may hold securities and otherwise to exercise, or authorize any officer otherwise to exercise, any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.

~~The~~If the Board has designated only one President, such President shall be the Chief Executive Officer of the Corporation unless the Board shall designate another officer to be the Chief Executive Officer. If there is no President or there is more than one President, and the Board has not designated any other officer to be the Chief Executive Officer, then the Chairperson of the Board shall be the Chief Executive Officer.

**Section 4.3: Chairperson of the Board.** The Chairperson of the Board shall have the power to preside at all meetings of the Board and shall have such other powers and duties as pro-vided in these Bylaws and as the Board may from time to time prescribe.

**Section 4.4: President.** The Chief Executive Officer shall be the President of the Cor- poration unless the Board shall have designated one ~~individual as the President or more individuals as Presidents~~ and a different individual as the Chief Executive Officer of the Corporation. ~~Subject to the provisions of these Bylaws and to the direction of the Board, and subject to the supervisory powers of the Chief Executive Officer (if the Chief Executive Officer is an officer other than the President), and subject to such supervisory powers and authority as may be given by the Board to the Chairperson of the Board, and/or to any other officer, the President shall have the responsibility for the general management and control of the business and affairs of the Corporation and the~~ Each President shall perform all duties and have all powers that are commonly incident to the office of President, including general supervision and direction of all of the officers, employees and agents of the Corporation (other than the Chief Executive Officer, ~~if the Chief Executive Officer is an officer other than the~~ and any other President) ~~and shall perform all duties and have all powers that are commonly incident to the office of President~~ or that are delegated to ~~the~~such President by the Board. A President may be designated by the Board to perform the duties and exercise the powers of the Chief Executive Officer in the event of the Chief Executive Officer's absence or disability.

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**Section 4.5: Vice President.** Each Vice President shall have all such powers and duties as are commonly incident to the office of Vice President, or that are delegated to him or her by the Board ~~or~~, the Chief Executive Officer, or a President. A Vice President may be designated by the Board to perform the duties and exercise the powers of the Chief Executive Officer in the event of the Chief Executive Officer's absence or disability.

**Section 4.6: Chief Financial Officer.** The Chief Financial Officer shall be the Treasurer of the Corporation unless the Board shall have designated another officer as the Treasurer of the Corporation. Subject to the direction of the Board and the Chief Executive Officer, the Chief Financial Officer shall perform all duties and have all powers that are commonly incident to the office of Chief Financial Officer.

**Section 4.7: Treasurer.** The Treasurer shall have custody of all moneys and securities of the Corporation. The Treasurer 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 and have such other powers as are commonly incident to the office of Treasurer, or as the Board or the Chief Executive Officer may from time to time prescribe.

**Section 4.8: 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. The Secretary shall have charge of the corporate minute books and similar records and shall perform such other duties and have such other powers as are commonly incident to the office of Secretary, or as the Board ~~or~~, the Chief Executive Officer, or any President may from time to time prescribe.

**Section 4.9: Delegation of Authority.** The Board may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

**Section 4.10: Removal.** Any officer of the Corporation shall serve at the pleasure of the Board and may be removed at any time, with or without cause, by the Board; provided that if the Board has empowered the Chief Executive Officer to appoint any Vice Presidents of the Corporation, then such Vice Presidents may be removed by the Chief Executive Officer. Such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation.

**Section 4.11: Other Officers.** Such other officers as the Board may designate shall perform such duties and have such powers as from time to time may be assigned to them by the Board. The Board may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

**Section 4.12: Duties of Officers May Be Delegated.** In case any officer is absent, or for any other reason that the Board may deem sufficient, the Board, Chief Executive Officer or any President may reassign the exercise of the powers and the performance of duties of such officer to any other officer or to any director.

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## ARTICLE V: STOCK

**Section 5.1: Certificates.** The shares of capital stock of the Corporation shall be represented by certificates; provided, however, that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock may be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation (or the transfer agent or registrar, as the case may be). Notwithstanding the adoption of such resolution by the Board, each holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by the Chairperson or Vice-Chairperson of the Board, or ~~the~~ President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the 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. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were an officer, transfer agent or registrar at the date of issue.

**Section 5.2: Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates or Uncertificated Shares.** The Corporation may issue a new certificate of stock, or uncertificated shares, in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be 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 agree to indemnify the Corporation and/or 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 5.3: Other Regulations.** The issue, transfer, conversion and registration of stock certificates and uncertificated securities shall be governed by such other regulations as the Board may establish. The Board may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

## ARTICLE VI: INDEMNIFICATION

**Section 6.1: Right to Indemnification of Directors and Officers.** The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an "Indemnified Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative ( a "Proceeding"), by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans (collectively, "Another Enterprise"), against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in this Article VI, the Corporation shall be required to indemnify an Indemnified Person in connection with a

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Proceeding ( or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding ( or part thereof) by the Indemnified Person was authorized in advance by the Board.

**Section 6.2: Advancement of Expenses of Directors.** The Corporation shall pay the expenses (including attorneys' fees) incurred by an Indemnified Person in defending any Proceeding in advance of its final disposition, provided, however, that such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Indemnified Person to repay all amounts advanced if it should ultimately be determined that the Indemnified Person is not entitled to be indemnified under this Article VI or otherwise, and such other terms and conditions as the general counsel of the Corporation in his or her discretion deems appropriate.

**Section 6.3: Claims by Directors and Officers.** If a claim for indemnification or advancement of expenses under this Article VI is not paid in full within a reasonable time after a written claim therefor by the Indemnified Person has been received by the Corporation, the Indemnified Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Indemnified Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

**Section 6.4: Indemnification of Employees and Agents.** The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for whom such person is the legal representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification of persons who are non-director or officer employees or agents shall be made in such manner as is determined by the Board in its sole discretion. Notwithstanding the foregoing sentence, the Corporation shall not be required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board.

**Section 6.5: Advancement of Expenses of Employees and Agents.** The Corporation may pay the expenses (including attorneys' fees) incurred by an employee or agent in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board; provided, however, that such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the employee or agent to repay all amounts advanced if it should ultimately be determined that the employee or agent is not entitled to be indemnified under this Article VI or otherwise.

**Section 6.6: Non-Exclusivity of Rights.** The rights conferred on any person by this Article VI shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation or Bylaws of the Corporation, agreement, vote of stockholders or disinterested directors or otherwise.

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**Section 6.7: Insurance.** The Board may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's Corporation's expense insurance:

(a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers, agents and employees under the provisions of this Article VI; and (b) to indemnify or insure directors, officers, agents and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article VI.

**Section 6.8: Amendment or Repeal.** The rights to indemnification and advancement of expenses conferred upon any current or former director or officer of the Corporation pursuant to this Article VI (whether by reason of the fact that such person is or was a director or officer of the Corporation, or while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of Another Enterprise) shall be contract rights, shall vest when such person becomes a director or officer of the Corporation, and shall continue as vested contract rights even if such person ceases to be a director or officer of the Corporation. Any amendment, repeal or modification of, or adoption of any provision inconsistent with, this Article VI ( or any provision hereof) shall not adversely affect any right to indemnification or advancement of expenses granted to any person pursuant hereto with respect to any act or omission of such person occurring prior to the time of such amendment, repeal, modification or adoption (regardless of whether the Proceeding relating to such acts or omissions, or any proceeding relating to such person's rights to indemnification or to advancement of expenses, is commenced before or after the time of such amendment, repeal, modification or adoption), and any such amendment, repeal, modification or adoption that would adversely affect such person's person's rights to indemnification or advancement of expenses hereunder shall be ineffective as to such person, except with respect to any threatened, pending or completed Proceeding that relates to or arises from (and only to the extent such Proceeding relates to or arises from) any act or omission of such person occurring after the effective time of such amendment, repeal, modification or adoption. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person's person's heirs, executors and administrators.

## ARTICLE VII: EXCULPATION

**Section 7.1: Exculpation of Directors.** To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL or any other applicable law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended or such other applicable laws.

**Section 7.2: Amendment or Repeal.** Any amendment, repeal or modification of the foregoing provisions of this Article VII, or the adoption of any provision of the Certificate of Incorporation of the Corporation inconsistent with this Article VII, by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such amendment, repeal, modification or adoption.

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## ARTICLE VIII: NOTICES

### **Section 8.1: Notice.**

8.1.1 **Form and Delivery.** Except as otherwise specifically required in these Bylaws (including, without limitation, Section 8.1.2 below) or by law, all notices required to be given pursuant to these Bylaws shall be in writing and may, (a) in every instance in connection with any delivery to a member of the Board, be effectively given by hand delivery (including use of a delivery service), by depositing such notice in the mail, postage prepaid, or by sending such notice by prepaid telegram, cablegram, overnight express courier, facsimile, electronic mail or other form of electronic transmission and (b) be effectively delivered to a stockholder when given by hand delivery, by depositing such notice in the mail, postage prepaid or, if specifically consented to by the stockholder as described in Section 8.1.2 of this Article VIII by sending such notice by telegram, cablegram, facsimile, electronic mail or other form of electronic transmission. Any such notice shall be addressed to the person to whom notice is to be given at such person's address as it appears on the records of the Corporation. The notice shall be deemed given (a) 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, (b) in the case of delivery by mail, upon deposit in the mail, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via telegram, cablegram, facsimile, electronic mail or other form of electronic transmission, when dispatched.

8.1.2 **Electronic Transmission.** Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given in accordance with Section 232 of the DGCL. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (a) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (b) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice; *provided, however*, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Notice given pursuant to this Section 8.1.2 shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of such posting and the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder.

8.1.3 **Affidavit of Giving Notice.** An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

**Section 8.2: Waiver of Notice.** Whenever notice is required to be given under any provision of the DGCL, the Certificate of Incorporation or these Bylaws, a written waiver of notice, signed by the person entitled to notice, or waiver by electronic transmission by such person, 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

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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 waiver of notice. [Any stockholder waiving notice of the meeting shall be bound by the proceedings of the meeting in all respects as if due notice thereof had been given.](#)

## ARTICLE IX: INTERESTED DIRECTORS

**Section 9.1: Interested Directors.** No contract or transaction between the Corporation and one or more of its members of the Board 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 members of the board of 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: (a) 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 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; (b) 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 (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board, a committee thereof, or the stockholders.

**Section 9.2: Quorum.** Interested directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes the contract or transaction.

## ARTICLE X: MISCELLANEOUS

**Section 10.1: Fiscal Year.** The fiscal year of the Corporation shall be determined by resolution of the Board.

**Section 10.2: Seal.** The Board may provide for a corporate seal, which may 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.

**Section 10.3: 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 on or by means of, or be in the form of, diskettes, CDs, or any other information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the DGCL.

**Section 10.4: Reliance upon Books and Records.** A member of the Board, or a member of any committee designated by the Board shall, in the performance of such person's duties, be fully protected in relying in good faith upon records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the

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Corporation's officers or employees, or committees of the Board, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

**Section 10.5: Certificate of Incorporation Governs.** In the event of any conflict between the provisions of the Certificate of Incorporation and Bylaws, the provisions of the Certificate of Incorporation shall govern.

**Section 10.6: Severability.** If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the 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.

#### **ARTICLE XI: AMENDMENT**

Notwithstanding any other provision of these Bylaws, any amendment or repeal of these Bylaws, or adoption of Bylaws, shall require the approval of the Board or the stockholders of the Corporation as provided in the Certificate of Incorporation.



**Trupanion, Inc.**  
**EMPLOYEE Severance and change in control Plan**

**ARTICLE I**

**Purpose**

This Employee Severance and Change in Control Plan (the “**Plan**”) has been established by the Company on January 29, 2021 (the “**Effective Date**”) to provide Participants with the opportunity to receive severance benefits in the event of certain terminations of employment and provide Participants with the opportunity to receive severance protection in connection with a Change in Control of the Company. The purpose of the Plan is to attract and retain qualified employees and assure the present and future continuity, objectivity, and dedication of employees in the event of any Change in Control to maximize the value of the Company on a Change in Control. The Plan, as a "severance pay arrangement" within the meaning of Section 3(2)(B)(i) of ERISA, is intended to be and shall be administered and maintained as an unfunded welfare benefit plan under Section 3(1) of ERISA.

Capitalized terms used but not otherwise defined herein have the meanings set forth in ARTICLE II.

**ARTICLE II**

**Definitions**

“**Administrator**” means the Board or any committee thereof duly authorized by the Board to administer the Plan.

“**Beneficial Owner**” has the meaning ascribed to it in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The term “**Beneficial Ownership**” has a corresponding meaning.

“**Board**” means the Board of Directors of Trupanion, Inc.

“**Bonus**” means the bonus before any salary reduction contributions to any plan or arrangement under Code Section 125, 132(f) or 401(k).

“**Cause**” means:

(a) the Participant’s willful failure to perform, or gross neglect of, his or her duties (other than any such failure resulting from incapacity due to physical or mental illness);

(b) the Participant’s material breach of a fiduciary duty owed to the Company, of a written Company policy provided to the Participant from time to time, or of a restrictive covenant to which the Participant is bound by the Company;

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(c) the Participant's willful failure to comply with any valid and legal directive of the Board or the person to whom the Participant directly or indirectly reports;

(d) the Participant's willful engagement in dishonesty, illegal conduct or gross misconduct, which is, in each case, materially injurious to the Company or its affiliates;

(e) the Participant's fraud, embezzlement (or attempted embezzlement), theft (or attempted theft), whether or not related to the Participant's employment with the Company; or

(f) the Participant's conviction of or plea of guilty or *nolo contendere* to a crime that constitutes a felony (or state law equivalent) or a crime that constitutes a misdemeanor involving moral turpitude, if such felony or other crime is work-related, materially impairs the Participant's ability to perform services for the Company or results in material reputational or financial harm to the Company or its affiliates.

For purposes of this definition, no act or failure to act on the part of the Participant shall be considered "willful" unless it is done, or omitted to be done, by the Participant in bad faith or without reasonable belief that the Participant's action or omission was in the best interests of the Company.

**"Change in Control"** means the occurrence of any of the following events:

(a) any "Person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company's then-outstanding voting securities; provided, however, that for purposes of this subclause (a) the acquisition of additional securities by any one Person who is considered to own more than fifty percent (50%) of the total voting power of the securities of the Company will not be considered a Change in Control;

(b) the consummation of the sale or disposition by the Company of all or substantially all of the Company's assets;

(c) the consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which 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 or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation;

(d) any other transaction which qualifies as a "corporate transaction" under Section 424(a) of the Code wherein the stockholders of the Company give up all of their equity interest in the Company (except for the acquisition, sale or transfer of all or substantially all of the outstanding shares of the Company); or

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(e) a change in the effective control of the Company that occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by member of the Board whose appointment or election is not endorsed by as majority of the members of the Board prior to the date of the appointment or election. For purpose of this subclause (e), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control.

For purposes of this definition, Persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

**“Change in Control Termination”** means a Qualifying Termination that occurs during the Covered Period.

**“Code”** means the Internal Revenue Code of 1986, as amended. Any reference to a section of the Code shall be deemed to include a reference to any regulations promulgated thereunder.

**“Company”** means Trupanion, Inc., a Delaware corporation, and any successor thereto.

**“Covered Period”** means the period of time beginning on the first occurrence of a Change in Control and lasting through the one-year anniversary of the occurrence of the Change in Control. The Covered Period shall also include the three-month period before the occurrence of the Change in Control if a Qualifying Termination occurs during such period and the Change in Control occurs.

**“Effective Date”** has the meaning set forth in ARTICLE I.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended.

**“Exchange Act”** means the Securities and Exchange Act of 1934, as amended.

**“Participant”** means any full-time United States resident employee of the Company or any of its subsidiaries who has been employed by the Company or any of its subsidiaries for at least thirty days.

**“Person”** has the meaning ascribed to it in Section 13(d)(3) of the Exchange Act.

**“Qualifying Termination”** means the termination of a Participant’s employment by the Company without Cause (and not as a result of the Participant’s death or disability).

**“Salary”** means base salary in effect immediately prior to the date of such Qualifying Termination (before any salary reduction contributions to any plan or arrangement under Code Section 125, 132(f) or 401(k), including commissions (where applicable), but excluding overtime, bonuses, awards, imputed income or extraordinary payments).

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“**Separation from Service**” means a separation from service within the meaning of Section 409A of the Code.

“**Severance Period**” means a minimum of two weeks with an additional two weeks for each completed year of employment with the Company (calculated as of the Participant’s first day of employment through and including such Participant’s Separation from Service) up to a maximum of 26 weeks.

“**Separation Agreement**” has the meaning set forth in Section 6.01(b).

“**Specified Employee Payment Date**” has the meaning set forth in Section 10.12(b).

### ARTICLE III

#### Participation

**Section 3.01** Participants. The Administrator shall provide written notice to each Participant of such Participant’s participation in the Plan.

### ARTICLE IV

#### Severance

**Section 4.01** Severance. If a Participant experiences a Qualifying Termination, then, subject to ARTICLE VI, the Company will provide the Participant with the following:

- (a) that portion of such Participant’s Salary payable during the Severance Period;
- (b) for each full calendar quarter prior to the date of such Qualifying Termination, any bonuses earned by Participant but unpaid as of the date of such Qualifying Termination; and
- (c) a payment equal to one month of the medical insurance premium paid by the Participant for himself or herself immediately prior to the date of such Qualifying Termination.

**Section 4.02** Change in Control. If a Participant experiences a Change in Control Termination, then, subject to ARTICLE VI and in lieu of the payments set forth in Section 4.01, the Company will provide the Participant with the following:

- (a) payment equal to six months of the greater of (i) Participant’s Salary and (ii) Participant’s base salary in effect on the first occurrence of a Change in Control (before any salary reduction contributions to any plan or arrangement under Code Section 125, 132(f) or 401(k), including commissions (where applicable), but excluding overtime, bonuses, awards, imputed income or extraordinary payments); and
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(b) for each full calendar quarter prior to the date of such Change of Control Termination, any bonuses earned by Participant but unpaid as of the date of such Change of Control Termination.

**Section 4.03** Subject to Section 10.12, the payments described in Section 4.01 will be paid in a single lump-sum on the Company's next payroll date after the 61st day following the Qualifying Termination and the payments described in Section 4.02 will be paid in a single lump-sum on the Company's next payroll date after the 61st day following the later of the consummation of the Change in Control or the Change in Control Termination; provided that such lump-sum payment shall be made no later than March 15<sup>th</sup> of the calendar year following the calendar year of the Participant's Qualifying Termination.

## ARTICLE V

### Equity Awards

**Section 5.01** Equity Awards.

(a) A Qualifying Termination that is not a Change in Control Termination shall not affect the terms of any equity awards held by a Participant and the treatment of any such equity awards shall be determined in accordance with the terms of the Company equity plan or plans under which they were granted and any applicable award agreements.

(b) Notwithstanding the terms of the Company equity plan or plans under which a Participant's equity awards are granted or any applicable award agreements, unless such plan or award agreement expressly disclaims this provision of this Plan, if a Participant has a Change in Control Termination, then, subject to Article VI:

(i) all of the Participant's outstanding unvested time-based equity awards shall become fully vested and any restrictions thereon (other than those imposed by applicable securities laws) shall lapse and, in the case of stock options and stock appreciation rights, shall remain exercisable for the remainder of their full term; and

(ii) all of the Participant's outstanding unvested equity awards with performance-based vesting, shall be deemed achieved at target levels with respect to performance goals or other vesting criteria.

## ARTICLE VI

### Conditions

**Section 6.01** Conditions. A Participant's entitlement to any benefits under ARTICLE IV or ARTICLE V will be subject to:

(a) the Participant experiencing a Qualifying Termination; and

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(b) the Participant executing a separation agreement in substantially the form attached hereto as Exhibit A (the “**Separation Agreement**”) to the reasonable satisfaction of the Company and such Separation Agreement becoming effective and irrevocable within 60 days following the Participant’s Qualifying Termination or, in the case of a Change in Control Termination, within 60 days following the later of the consummation of the Change in Control or the Change in Control Termination. If the Participant does not execute and return the Separation Agreement, such that it does not become effective and irrevocable within the applicable 60-day period, the Participant shall cease to be entitled to any payments or benefits under this Plan.

## ARTICLE VII

### Section 280G

**Section 7.01** Reduction. Notwithstanding any other provision of the Plan or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided by the Company or its affiliates to a Participant or for a Participant’s benefit pursuant to the terms of the Plan or otherwise (“**Covered Payments**”) constitute parachute payments (“**Parachute Payments**”) within the meaning of Section 280G of the Code and would, but for this ARTICLE VII, be subject to the excise tax imposed under Section 4999 of the Code (or any successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the “**Excise Tax**”), then the Covered Payments shall be either:

(a) reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the “**Reduced Amount**”); or

(b) payable in full if the Participant’s receipt on an after-tax basis of the full amount of payments and benefits (after taking into account the applicable federal, state, local and foreign income, employment and excise taxes (including the Excise Tax)) would result in the Participant receiving an amount greater than the Reduced Amount.

**Section 7.02** Order of Reduction. Any such reduction shall be made by the Company in its sole discretion consistent with the requirements of Section 409A of the Code.

**Section 7.03** Determinations. Any determination required under this ARTICLE VII, including whether any payments or benefits are Parachute Payments, shall be made by the professional firm engaged by the Company for general tax purposes as of the day prior to the date of the event that might reasonably be anticipated to result in Covered Payments that would otherwise be subject to the Excise Tax will perform the foregoing calculations. If the tax firm so engaged by the Company is serving as accountant or auditor for the acquiring company, the Company will appoint a nationally recognized tax firm to make the determinations required by this Section. The Company will bear all expenses with respect to the determinations by such firm required to be made by this Section. The Company and the Participant shall furnish such tax firm such information and documents as the tax firm may reasonably request in order to

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make its required determination. The tax firm will provide its calculations, together with detailed supporting documentation, to the Company and the Participant as soon as practicable following its engagement. Any good faith determinations of the tax firm made hereunder will be final, binding and conclusive upon the Company and the Participant.

## ARTICLE VIII

### Claims Procedures

**Section 8.01** Initial Claims. A Participant who believes he or she is entitled to a payment under the Plan that has not been received may submit a written claim for benefits to the Plan within 60 days after the Participant's Qualifying Termination or, in the case of a Change in Control Termination, within 60 days following the Change in Control. Claims should be addressed and sent to [legal@trupanion.com].

If the Participant's claim is denied, in whole or in part, the Participant will be furnished with written notice of the denial within 90 days after the Administrator's receipt of the Participant's written claim, unless special circumstances require an extension of time for processing the claim, in which case a period not to exceed 180 days will apply. If such an extension of time is required, written notice of the extension will be furnished to the Participant before the termination of the initial 90-day period and will describe the special circumstances requiring the extension, and the date on which a decision is expected to be rendered. Written notice of the denial of the Participant's claim will contain the following information:

- (a) the specific reason or reasons for the denial of the Participant's claim;
- (b) references to the specific Plan provisions on which the denial of the Participant's claim was based;
- (c) a description of any additional information or material required by the Administrator to reconsider the Participant's claim (to the extent applicable) and an explanation of why such material or information is necessary; and
- (d) a description of the Plan's review procedures and time limits applicable to such procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of ERISA following a benefit claim denial on review.

**Section 8.02** Appeal of Denied Claims. If the Participant's claim is denied and he or she wishes to submit a request for a review of the denied claim, the Participant or his or her authorized representative must follow the procedures described below:

- (a) Upon receipt of the denied claim, the Participant (or his or her authorized representative) may file a request for review of the claim in writing with the Administrator. This request for review must be filed no later than 60 days after the Participant has received written notification of the denial.
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(b) The Participant has the right to submit in writing to the Administrator any comments, documents, records or other information relating to his or her claim for benefits.

(c) The Participant has the right to be provided with, upon request and free of charge, reasonable access to and copies of all pertinent documents, records and other information that is relevant to his or her claim for benefits.

(d) The review of the denied claim will take into account all comments, documents, records and other information that the Participant submitted relating to his or her claim, without regard to whether such information was submitted or considered in the initial denial of his or her claim.

**Section 8.03** Administrator's Response to Appeal. The Administrator will provide the Participant with written notice of its decision within 60 days after the Administrator's receipt of the Participant's written claim for review. There may be special circumstances which require an extension of this 60-day period. In any such case, the Administrator will notify the Participant in writing within the 60-day period and the final decision will be made no later than 120 days after the Administrator's receipt of the Participant's written claim for review. The Administrator's decision on the Participant's claim for review will be communicated to the Participant in writing and will clearly state:

(a) the specific reason or reasons for the denial of the Participant's claim;

(b) reference to the specific Plan provisions on which the denial of the Participant's claim is based;

(c) a statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, the Plan and all documents, records, and other information relevant to his or her claim for benefits; and

(d) a statement describing the Participant's right to bring an action under Section 502(a) of ERISA.

**Section 8.04** Exhaustion of Administrative Remedies. The exhaustion of these claims procedures is mandatory for resolving every claim and dispute arising under the Plan. As to such claims and disputes:

(a) no claimant shall be permitted to commence any legal action to recover benefits or to enforce or clarify rights under the Plan under Section 502 or Section 510 of ERISA or under any other provision of law, whether or not statutory, until these claims procedures have been exhausted in their entirety; and

(b) in any such legal action, all explicit and implicit determinations by the Administrator (including, but not limited to, determinations as to whether the claim, or a

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request for a review of a denied claim, was timely filed) shall be afforded the maximum deference permitted by law.

**Section 8.05** Arbitration. Subject to Section 8.04, any dispute, controversy or claim arising out of or related to the Plan shall be submitted to and decided by binding arbitration. Arbitration shall be administered exclusively by the American Arbitration Association and shall be conducted consistent with the rules, regulations and requirements thereof as well as any requirements imposed by state law. Any arbitral award determination shall be final and binding.

**Section 8.06** Attorney's Fees. The Company and each Participant shall bear their own attorneys' fees incurred in connection with any disputes between them.

## ARTICLE IX

### Administration, Amendment and Termination

**Section 9.01** Administration. The Administrator has the exclusive right, power and authority, in its sole and absolute discretion, to administer and interpret the Plan. The Administrator has all powers reasonably necessary to carry out its responsibilities under the Plan including (but not limited to) the sole and absolute discretionary authority to:

- (a) administer the Plan according to its terms and to interpret Plan provisions;
- (b) resolve and clarify inconsistencies, ambiguities, and omissions in the Plan and among and between the Plan and other related documents;
- (c) take all actions and make all decisions regarding questions of eligibility and entitlement to benefits, and benefit amounts;
- (d) make, amend, interpret, and enforce all appropriate rules and regulations for the administration of the Plan;
- (e) process and approve or deny all claims for benefits; and
- (f) decide or resolve any and all questions, including benefit entitlement determinations and interpretations of the Plan, as may arise in connection with the Plan.

The decision of the Administrator on any disputes arising under the Plan, including (but not limited to) questions of construction, interpretation and administration shall be final, conclusive and binding on all persons having an interest in or under the Plan. Any determination made by the Administrator shall be given deference in the event the determination is subject to judicial review and shall be overturned by a court of law only if it is arbitrary and capricious.

**Section 9.02** Amendment and Termination. The Company reserves the right to amend or terminate the Plan at any time, by providing at least 90 days advance written notice to each Participant; provided that no such amendment or termination that has the effect of reducing or

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diminishing the right of any Participant will be effective without the written consent of such Participant.

## ARTICLE X

### General Provisions

**Section 10.01** At-Will Employment. The Plan does not alter the status of each Participant as an at-will employee of the Company. Nothing contained herein shall be deemed to give any Participant the right to remain employed by the Company or to interfere with the rights of the Company to terminate the employment of any Participant at any time, with or without Cause.

**Section 10.02** Effect on Other Plans, Agreements, and Benefits.

(a) Any severance benefits payable to a Participant under the Plan will be in lieu of and not in addition to any severance benefits to which the Participant would otherwise be entitled under any general severance policy or severance plan maintained by the Company or any agreement between the Participant and the Company that provides for severance benefits (unless the policy, plan, or agreement expressly provides for severance benefits to be in addition to those provided under the Plan); and (ii) any severance benefits payable to a Participant under the Plan will be reduced by any severance benefits to which the Participant is entitled by operation of a statute or government regulations.

(b) Any severance benefits payable to a Participant under the Plan will not be counted as compensation for purposes of determining benefits under any other benefit policies or plans of the Company, except to the extent expressly provided therein.

(c) Neither the establishment of the Plan, nor any modification thereof, nor the creation of any fund, trust or account, nor the payment of any benefits shall be construed as giving any Participant, or any person whomsoever, the right to be retained in the service of the Company or any subsidiary thereof, and all Participants shall remain subject to discharge to the same extent as if the Plan had never been adopted.

(d) As of the Effective Date, the Company's On-Going Severance Policy for CEO and Key Senior Leaders and the Company's Change of Control Policy for Select Officers and Key Leaders are hereby terminated.

**Section 10.03** Severability. The invalidity or unenforceability of any provision of the Plan shall not affect the validity or enforceability of any other provision of the Plan. If any provision of the Plan is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, such provision shall be deemed modified, amended and narrowed to the extent necessary to render such provision legal, valid, and enforceable, and the other remaining provisions of the Plan shall not be affected but shall remain in full force and effect.

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**Section 10.04** Headings and Subheadings. Headings and subheadings contained in the Plan are intended solely for convenience and no provision of the Plan is to be construed by reference to the heading or subheading of any section or paragraph.

**Section 10.05** Unfunded Obligations. The amounts to be paid to Participants under the Plan are unfunded obligations of the Company. The Company is not required to segregate any monies or other assets from its general funds with respect to these obligations. Participants shall not have any preference or security interest in any assets of the Company other than as a general unsecured creditor. The Company shall retain at all times beneficial ownership of any investments, including trust investments, which the Company may make to fulfill its payment obligations hereunder. Any investments or the creation or maintenance of any trust or any Participant account shall not create or constitute a trust or fiduciary relationship between the Board or the Company and a Participant, or otherwise create any vested or beneficial interest in any Participant or the Participant's creditors in any assets of the Company.

**Section 10.06** Successors. The Plan will be binding upon any successor to the Company, its assets, its businesses or its interest, in the same manner and to the same extent that the Company would be obligated under the Plan if no succession had taken place. In the case of any transaction in which a successor would not by the foregoing provision or by operation of law be bound by the Plan, the Company shall require any successor to the Company to expressly and unconditionally assume the Plan in writing and honor the obligations of the Company hereunder, in the same manner and to the same extent that the Company would be required to perform if no succession had taken place. All payments and benefits that become due to a Participant under the Plan will inure to the benefit of his or her heirs, assigns, designees, or legal representatives.

**Section 10.07** Transfer and Assignment. Neither a Participant nor any other person shall have any right to sell, assign, transfer, pledge, anticipate or otherwise encumber, transfer, hypothecate or convey any amounts payable under the Plan prior to the date that such amounts are paid, except that, in the case of a Participant's death, such amounts shall be paid to the Participant's beneficiaries.

**Section 10.08** Waiver. Any party's failure to enforce any provision or provisions of the Plan will not in any way be construed as a waiver of any such provision or provisions, nor prevent any party from thereafter enforcing each and every other provision of the Plan.

**Section 10.09** Governing Law. To the extent not pre-empted by federal law, the Plan shall be construed in accordance with and governed by the laws of Washington without regard to conflicts of law principles. Subject to Section 8.05, any action or proceeding to enforce the provisions of the Plan will be brought only in a state or federal court located in the state of Washington, county of King, and each party consents to the venue and jurisdiction of such court. The parties hereby irrevocably submit to the exclusive jurisdiction of such courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.

**Section 10.10** Clawback. Any amounts payable under the Plan are subject to any policy (whether in existence as of the Effective Date or later adopted) established by the Company

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providing for clawback or recovery of amounts that were paid to the Participant. The Company will make any determination for clawback or recovery in its sole discretion and in accordance with any applicable law or regulation.

**Section 10.11** Withholding. The Company shall have the right to withhold from any amount payable hereunder any Federal, state, and local taxes in order for the Company to satisfy any withholding tax obligation it may have under any applicable law or regulation.

**Section 10.12** Section 409A.

(a) The Plan is intended to comply with Section 409A of the Code or an exemption thereunder and shall be construed and administered in accordance with Section 409A of the Code. Notwithstanding any other provision of the Plan, payments provided under the Plan may only be made upon an event and in a manner that complies with Section 409A of the Code or an applicable exemption. Any payments under the Plan that may be excluded from Section 409A of the Code either as separation pay due to an involuntary Separation from Service or as a short-term deferral shall be excluded from Section 409A of the Code to the maximum extent possible. For purposes of Section 409A of the Code, each installment payment provided under the Plan shall be treated as a separate payment. Any payments to be made under the Plan upon a termination of employment shall only be made upon a "Separation from Service". Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under the Plan comply with Section 409A of the Code and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest, or other expenses that may be incurred by a Participant on account of non-compliance with Section 409A of the Code.

(b) Notwithstanding any other provision of the Plan, if any payment or benefit provided to a Participant in connection with his or her Qualifying Termination is determined to constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Code and the Participant is determined to be a "specified employee" as defined in Section 409A(a)(2)(b)(i) of the Code, then such payment or benefit shall not be paid until the first payroll date to occur following the six-month anniversary of the Participant's Separation from Service or, if earlier, on the Participant's death (the "**Specified Employee Payment Date**"). The aggregate of any payments that would otherwise have been paid before the Specified Employee Payment Date shall be paid to the Participant in a lump sum on the Specified Employee Payment Date and thereafter, any remaining payments shall be paid without delay in accordance with their original schedule. Notwithstanding any other provision of the Plan, if any payment or benefit is conditioned on the Participant's execution of a Separation Agreement, the first payment shall include all amounts that would otherwise have been paid to the Participant during the period beginning on the date of the Qualifying Termination and ending on the payment date if no delay had been imposed.

(c) To the extent required by Section 409A of the Code, each reimbursement or in-kind benefit provided under the Plan shall be provided in accordance with the

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following: (i) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year; and (ii) any right to reimbursements or in-kind benefits under the Plan shall not be subject to liquidation or exchange for another benefit.

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THE PARTIES TO THIS CONFIDENTIAL AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS HAVE READ THE FOREGOING AGREEMENT AND FULLY UNDERSTAND EACH AND EVERY PROVISION CONTAINED HEREIN. WHEREFORE, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN BELOW.

**Team Member:**

By: \_\_\_\_\_

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

Date: \_\_\_\_\_

**Trupanion Managers USA, Inc.:**

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_