

# XYZ CORPORATION

## EQUITY INCENTIVE PLAN

Adopted by the Board on January 15, 2017

Approved by Stockholders on May 1, 2017

Amended: January 15, 2022

### 1. PURPOSES

1.1 Eligible Stock Award Recipients. The persons eligible to receive Stock Awards are the Employees, Directors, and Consultants of the Company and its Affiliates.

1.2 Available Stock Awards. The types of stock awards that may be granted under this Plan shall be: (i) Incentive Stock Options, (ii) Nonstatutory Stock Options, (iii) Stock Appreciation Rights, (iv) Restricted Stock Awards, (v) Restricted Stock Units, (vi) Performance Share Awards, and (vii) Performance Share Units.

1.3 General Purpose. The Company, by means of this Plan, seeks to create incentives for eligible Employees (including officers), Directors, and Consultants of the Company and to maximize the long-term value of the Company by granting awards to acquire the Common Stock of the Company (or awards whose value is measured with reference to the Common Stock of the Company).

### 2. DEFINITIONS

2.1 "Affiliate" means a parent or subsidiary of the Company, with "parent" meaning an entity that controls the Company directly or indirectly, through one or more intermediaries, and "subsidiary" meaning an entity that is controlled by the Company directly or indirectly, through one or more intermediaries. Solely with respect to the granting of any Incentive Stock Options, Affiliate means any parent corporation or subsidiary corporation of the Company, whether now or hereafter existing, as those terms are defined in Sections 424(e) and (f), respectively, of the Code.

2.2 "Award Agreement" means a written agreement between the Company and a holder of a Stock Award setting forth the terms and conditions of an individual Stock Award grant. Each Award Agreement shall be subject to the terms and conditions of the Plan.

2.3 "Beneficial Owner" means the definition given in Rule 13d-3 promulgated under the Exchange Act.

2.4 "Board" means the Board of Directors of the Company.

2.5 "Cause" means (i) persistent or gross negligence or willful misconduct in the performance of Participant's duties to the Company; (ii) a material or willful violation of any federal or state law which if made public would injure the business or reputation of the Company as reasonably determined by the Company; (iii) commission of any act of fraud with respect to the Company; or (iv) conviction of a felony or a crime involving moral turpitude causing material harm to the standing and reputation of the Company, in each case as reasonably determined by the Company. Notwithstanding the

foregoing, if Participant is a party to an employment agreement with the Company that contains a different definition of "Cause," then the definition contained in such employment agreement shall apply.

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

(i) Any person or group is or becomes the Beneficial Owner, directly or indirectly, of more than 50% of the total voting power of the voting stock of the Company, including by way of merger, consolidation, or otherwise;

(ii) The sale, exchange, lease or other disposition of all or substantially all of the assets of the Company to a person or group of related persons, as such terms are defined or described in Sections 3(a)(9) and 13(d)(3) of the Exchange Act;

(iii) A merger or consolidation or similar transaction involving the Company;

(iv) A change in the composition of the Board occurring within a two-year period, as a result of which fewer than a majority of the Directors are Incumbent Directors; or

(v) A dissolution or liquidation of the Company.

2.7 "Code" means the Internal Revenue Code of 1986, as amended.

2.8 "Committee" means the committee appointed by the Board in accordance with Section 3.3 of the Plan.

2.9 "Common Stock" means the common shares of the Company.

2.10 "Company" means XYZ Corporation, a Delaware corporation.

2.11 "Consultant" means any person, including an advisor, (i) engaged by the Company or an Affiliate to render consulting or advisory services and who is compensated for such services or (ii) who is a member of the board of directors of an Affiliate. However, the term "Consultant" shall not include either Directors who are not compensated by the Company for their services as a Director or Directors who are compensated by the Company solely for their services as a Director.

2.12 "Continuous Service" means the absence of any interruption or termination of service as an Employee, Consultant, or Eligible Director. Continuous Service shall not be considered interrupted in the case of:

(i) sick leave;

(ii) military leave;

(iii) any other leave of absence as approved by the Board or the chief executive officer of the Company provided that such leave is for a period of not more than three (3) months, unless re-employment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to Company policy adopted from time to time. Vesting will continue during the period of Continuous Service. If re-employment is not guaranteed, the Participant is considered to be terminated on the first day immediately following the end of the three-month period;

(iv) in the case of change in status of Participant from his or her status at the time of grant or during the term of the Stock Award (e.g. Participant is a Consultant at the time of grant and subsequently becomes an Employee, or Participant is an Employee at the time of grant and subsequently becomes a Consultant); or

(v) in the case of transfers between locations of the Company or between the Company, its Affiliates, or its successor.

2.13 "Director" means a member of the Board of Directors of the Company.

2.14 "Disability" means the inability of an individual, in the opinion of a qualified physician acceptable to the Company, to perform the major duties of that individual's position with the company or an Affiliate of the Company because of the sickness or injury of the individual, or as may be otherwise defined under applicable laws.

2.15 "Dividend Equivalent" means a right to receive an amount equal to the regular cash dividend paid on one share of Common Stock. Dividend Equivalents may be granted only in connection with the grant of a Stock Award that is based on but does not consist of shares of Common Stock (whether or not restricted). The number of Dividend Equivalents so granted shall be equal to the number of related stock-based rights. Dividend Equivalents shall be subject to such terms and conditions as may be established by the Plan Committee, but they shall expire no later than the date on which their related stock-based rights are either exercised, expire, or are forfeited (whichever occurs first). The amounts payable due to a grant of Dividend Equivalents may be paid in cash, either currently or deferred, or converted into shares of Common Stock, as determined by the Board or Committee, as defined in Section 2.8.

2.16 "Eligible Director" means any Director who: (i) is not employed by the Company and (ii) does not receive a financial management fee from the Company and is not employed by any entity that receives such a fee.

2.17 "Employee" means any person employed by the Company or an Affiliate. Service as a Director or compensation by the Company or an Affiliate solely for services as a Director shall not be sufficient to constitute "employment" by the Company or an Affiliate.

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

2.19 "Fair Market Value" means, as of any date, the value of the Common Stock as determined as follows:

(i) If the Common Stock is listed on any established stock exchange, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported), as quoted on such exchange on the day of determination or, if the stock exchange on which the Common Stock trades is not open on the day of determination, the last business day prior to the day of determination;

(ii) If the Common Stock is quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the average of the high bid and the low asked prices for

the Common Stock on the day of determination or, if the securities market on which the Common Stock trades is not open on the day of determination, the last business day prior to the day of determination; or

(iii) In the absence of any established market for the Common Stock, the Fair Market Value thereof shall be determined in good faith by the Board.

(iv) Notwithstanding the foregoing, in the event of the exercise of an Option pursuant to a "same-day sale" program, the Fair Market Value of the Common Stock sold under such a program shall be the price at which the Common Stock was sold.

2.20 "Full-Value Stock Award" shall mean any of a Restricted Stock Award, Restricted Stock Unit, Performance Share Award, or Performance Share Unit.

2.21 "Good Reason" means that one or more of the following are undertaken by the Company without Participant's written consent: (i) the significant reduction of Participant's duties, authority, or responsibilities relative to Participant's duties, authority, or responsibilities as in effect immediately prior to such reduction, or the assignment to Participant of such reduced duties, authority, or responsibilities; *provided, however*, that a mere change in Participant's title or reporting relationships shall not provide the basis for a voluntary termination with Good Reason; (ii) a reduction by the Company in the base salary of the Participant as in effect immediately prior to such reduction, except as part of a one-time proportional reduction of the base salaries of all or substantially all of the Company's employees that does not exceed ten percent (10%); (iii) the relocation of Participant to a facility or a location more than twenty-five (25) miles from Participant's then current location without Participant's consent; or (iv) a material breach by the Company of any provision of the Plan or any other material agreement between Participant and the Company concerning the terms and conditions of Participant's employment that the Company fails to cure within ten (10) business days of receiving written notice from Participant.

2.22 "Incentive Stock Option" means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code and the regulations promulgated thereunder.

2.23 "Incumbent Directors" shall mean Directors who either (i) are Directors of the Company as of the date the Plan first becomes effective pursuant to Section 17 hereof or (ii) are elected, or nominated for election, to the Board with the affirmative votes of at least a majority of those Directors whose election or nomination was not in connection with any transaction described in subsections (i), (ii), or (iii) of Section 2.6, or in connection with an actual or threatened proxy contest relating to the election of Directors to the Company.

2.24 "Nonemployee Director" means a Director who either (i) is not a current Employee or Officer of the Company or its parent or a subsidiary, does not receive compensation (directly or indirectly) from the Company or its parent or a subsidiary for services rendered as a Consultant or in any capacity other than as a Director (except for an amount as to which disclosure would not be required under Item 404(a) of Regulation S-K promulgated pursuant to the Securities Act ("Regulation S-K")), does not possess an interest in any other transaction as to which disclosure would be required under Item 404(a) of Regulation S-K, and is not engaged in a business relationship as to which disclosure would be required under Item 404(b) of Regulation S-K; or (ii) is otherwise considered a "nonemployee director" for purposes of Rule 16b-3.

2.25 "Nonstatutory Stock Option" means an Option not intended to qualify as an Incentive Stock Option.

2.26 "Officer" means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

2.27 "Option" means an Incentive Stock Option or a Nonstatutory Stock Option granted pursuant to the Plan.

2.28 "Optionee" means a person to whom an Option is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Option.

2.29 "Participant" means a person to whom a Stock Award is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Stock Award.

2.30 "Performance Period" means any fiscal year of the Company or such other period as determined by the Board.

2.31 "Performance Share Award" means a grant of shares of the Company's Common Stock not requiring a Participant to pay any amount of monetary consideration other than par value, and which grant is subject to the provisions of Section 9.1 of the Plan.

2.32 "Performance Share Unit" means the right to receive the value of one (1) share of the Company's Common Stock, which may be settled in cash or shares as determined by the Board at the time the Performance Share Unit vests, with the further right to elect to defer receipt of that value otherwise deliverable upon the vesting of an award of Performance Share Units to the extent permitted in the Participant's Award Agreement. These Performance Share Units are subject to the provisions of Section 9.2 of the Plan.

2.33 "Plan" means this XYZ Corporation 2017 Equity Incentive Plan.

2.34 "Restricted Stock Award" means a grant of shares of the Company's Common Stock not requiring a Participant to pay any amount of monetary consideration other than par value, and which grant is subject to the provisions of Section 8.1 of the Plan.

2.35 "Restricted Stock Unit" means the right to receive the value of one (1) share of the Company's Common Stock which may be settled in cash or shares as determined by the Board at the time the Restricted Stock Unit vests, with the further right to elect to defer receipt of that value otherwise deliverable upon the vesting of an award of restricted stock to the extent permitted in the Participant's agreement. These Restricted Stock Units are subject to the provisions of Section 8.2 of the Plan.

2.36 "Rule 16b-3" means Rule 16b-3 promulgated under the Exchange Act or any successor to Rule 16b-3, as in effect from time to time.

2.37 "Securities Act" means the Securities Act of 1933, as amended.

2.38 "Stock Appreciation Right" means the right to receive an amount equal to the Fair Market Value of one (1) share of the Company's Common Stock on the day the Stock Appreciation Right is redeemed, reduced by the deemed exercise price or base price of such right, subject to the provisions of Section 7 of the Plan.

2.39 "Stock Award" means any Option award, Restricted Stock Award, Restricted Stock Unit, Stock Appreciation Right award, Performance Share Award, Performance Share Unit, or other stock-based award. Stock Awards may include, but are not limited to those listed in Section 1.2.

2.40 "Ten Percent Stockholder" means a person who owns (or is deemed to own pursuant to Section 424(d) of the Code) stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any of its Affiliates.

2.41 "Vesting Commencement Date" means the date on which a Stock Award begins to vest. Unless otherwise specified in the Award Agreement, the Vesting Commencement Date will be the same as a Stock Award's date of grant.

### 3. ADMINISTRATION

3.1 Administration by Board. The Board shall administer the Plan unless and until the Board delegates administration to a Committee, as provided in Section 3.3.

3.2 Powers of Board. The Board shall have the power, subject to, and within the limitations of, the express provisions of the Plan:

(i) To determine from time to time which of the persons eligible under the Plan shall be granted Stock Awards; when and how each Stock Award shall be granted; what type or combination of types of Stock Award shall be granted; the provisions of each Stock Award granted (which need not be identical), including the time or times when a person shall be permitted to receive Common Stock pursuant to a Stock Award; and the number of shares of Common Stock with respect to which a Stock Award shall be granted to each such person.

(ii) To construe and interpret the Plan and Stock Awards granted under it, and to establish, amend, and revoke rules and regulations for its administration. The Board, in the exercise of this power, may correct any defect, omission, or inconsistency in the Plan or in any Stock Award Agreement, in a manner and to the extent it shall deem necessary or expedient to make the Plan fully effective.

(iii) To amend the Plan or a Stock Award as provided in Section 15 of the Plan.

(iv) Generally, to exercise such powers and to perform such acts as the Board deems necessary, desirable, convenient, or expedient to promote the best interests of the Company that are not in conflict with the provisions of the Plan.

(v) To authorize any person to execute on behalf of the Company any instrument required to effect the grant of a Stock Award previously granted by the Board.

(vi) To determine whether Stock Awards will be settled in shares of Common Stock, cash, or any combination thereof.

(vii) To establish a program whereby Participants designated by the Board can reduce compensation otherwise payable in cash in exchange for Stock Awards under the Plan.

(viii) To impose such restrictions, conditions, or limitations as it determines appropriate as to the timing and manner of any resales by a Participant or other subsequent transfers by the Participant of any shares of Common Stock issued as a result of or under a Stock Award, including, without limitation, (a) restrictions under an insider trading policy and (b) restrictions as to the use of a specified brokerage firm for such resales or other transfers.

(ix) To provide, either at the time a Stock Award is granted or by subsequent action, that a Stock Award shall contain as a term thereof a right, either in tandem with the other rights under the Stock Award or as an alternative thereto, of the Participant to receive, without payment to the Company, a number of shares of Common Stock, cash, or a combination thereof, the amount of which is determined by reference to the value of the Stock Award.

3.3 Delegation to Committee. The Board may delegate administration of the Plan to a committee ("Committee") consisting solely of two or more Nonemployee Directors, in accordance with Rule 16b-3. The Committee may exercise, in connection with the administration of the Plan, any of the powers and authority granted to the Board under the Plan, and the Committee may delegate to a subcommittee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board shall thereafter be to the Committee or the subcommittee, as applicable), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. Within the scope of such authority, the Board or the Committee may delegate to a committee of one or more Directors who are not Nonemployee Directors the authority to grant Stock Awards to eligible persons who either (a) are not then subject to Section 16 of the Exchange Act or (b) are receiving a Stock Award as to which the Board or Committee elects not to comply with the Rule 16b-3 requirement that two or more Nonemployee Directors grant such Stock Award. Furthermore, within the scope of such authority, the Board may delegate to a committee of one or more officers of the Company to designate employees to receive options and other rights to acquire shares of Common Stock and the number of such options or other rights in accordance with the requirements of Section 157(c) of the Delaware General Corporation Law.

This Section 3.3 of the Plan, is subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and revert in the Board the administration of the Plan.

3.4 Effect of Board's Decision. All determinations, interpretations, and constructions made by the Board in good faith shall not be subject to review by any person and shall be final, binding, and conclusive on all persons.

3.5 Compliance with Section 16 of Exchange Act. With respect to persons subject to Section 16 of the Exchange Act, transactions under this Plan are intended to comply with the applicable conditions of Rule 16b-3, or any successor rule thereto. To the extent any provision of this Plan or action by the Board fails to so comply, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Board. Notwithstanding the above, it shall be the responsibility of such persons, not of the Company or the Board, to comply with the requirements of Section 16 of the Exchange Act; and neither the Company nor the Board shall be liable if this Plan or any transaction under this Plan fails to comply with the applicable conditions of Rule 16b-3 or any successor rule thereto, or if any person incurs any liability under Section 16 of the Exchange Act.

## 4. SHARES SUBJECT TO THE PLAN

4.1 Share Reserve. Subject to the provisions of Section 14 of the Plan relating to adjustments upon changes in Common Stock, the maximum aggregate number of shares of Common Stock that may be issued pursuant to Stock Awards shall not exceed five million (5,000,000) shares of Common Stock ("Share Reserve"). Each share of Common Stock subject to an Incentive Stock Option, Nonstatutory Stock Option, or Stock Appreciation Right issued under this Plan shall reduce the Share Reserve by one (1) share. Each share of Common Stock subject to a Full-Value Stock Award issued under this Plan shall reduce the Share Reserve by one and one-half (1.5) shares. To the extent that a distribution pursuant to a Stock Award is made in cash, the Share Reserve shall be reduced by the number of shares of Common Stock subject to the redeemed or exercised portion of the Stock Award. Notwithstanding any other provision of the Plan to the contrary, the maximum aggregate number of shares of Common Stock that may be issued under the Plan pursuant to Incentive Stock Options is five million (5,000,000) shares of Common Stock ("ISO Limit"), subject to the adjustments provided for in Section 14 of the Plan.

4.2 Reversion of Shares to the Share Reserve. If any Stock Award granted under this Plan shall for any reason (a) expire, be cancelled, or otherwise terminate, in whole or in part, without having been exercised or redeemed in full, (b) be reacquired by the Company prior to vesting, or (c) be repurchased at cost by the Company prior to vesting, the shares of Common Stock not acquired by the Participant under such Stock Award shall revert based on the amount by which the reserve was originally reduced or be added to the Share Reserve and become available for issuance under the Plan; provided, however, that shares of Common Stock shall not revert or be added to the Share Reserve that are (a) tendered in payment of an Option, (b) withheld by the Company to satisfy any tax withholding obligation, or (c) purchased by the Company with proceeds from the exercise of Options. Further, shares of Common Stock covered by a Stock Appreciation Right, to the extent that it is exercised and settled in shares of Common Stock, and whether or not shares of Common Stock are actually issued to the Participant upon exercise of the Stock Appreciation Right, shall be considered issued or transferred pursuant to the Plan.

4.3 Source of Shares. The shares of Common Stock subject to the Plan may be unissued shares or reacquired shares bought on the market or otherwise.

## 5. ELIGIBILITY

5.1 Eligibility for Specific Stock Awards. Incentive Stock Options may be granted only to Employees. Stock Awards other than Incentive Stock Options may be granted to Employees, Directors, and Consultants.

5.2 Ten Percent Stockholders. A Ten Percent Stockholder shall not be granted an Incentive Stock Option unless the exercise price of such Option is at least one hundred ten percent (110%) of the Fair Market Value of the Common Stock on the date of grant, and the Option is not exercisable after the expiration of five (5) years from the date of grant.

5.3 Annual Limitation. Subject to the provisions of Section 14 of the Plan relating to adjustments upon changes in the shares of Common Stock, no Employee shall be eligible to be granted Stock Awards covering more than 500,000 shares of Common Stock during any fiscal year of the Company. The foregoing provision applies to both continuing and newly hired Employees.



## 5.4 Consultants.

(i) A Consultant shall not be eligible for the grant of a Stock Award if, at the time of grant, a Form S-8 registration statement under the Securities Act ("Form S-8") is not available to register either the offer or the sale of the Company's securities to such Consultant because of the nature of the services that the Consultant is providing to the Company, or because the Consultant is not a natural person, or as otherwise provided by the rules governing the use of Form S-8, unless the Company determines both (1) that such grant (a) shall be registered in another manner under the Securities Act (e.g., on a Form S-3 registration statement) or (b) does not require registration under the Securities Act in order to comply with the requirements of the Securities Act, if applicable, and (2) that such grant complies with the securities laws of all other relevant jurisdictions.

(ii) Form S-8 generally is available to consultants and advisors only if (a) they are natural persons; (b) they provide bona fide services to the Company, its parents, or its majority-owned subsidiaries; and (c) the services are not in connection with the offer or sale of securities in a capital-raising transaction, and do not directly or indirectly promote or maintain a market for the Company's securities.

## 6. OPTION PROVISIONS

Each Option shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate. All Options shall be separately designated Incentive Stock Options or Nonstatutory Stock Options at the time of grant. The provisions of separate Options need not be identical, but each Option shall include (through incorporation of provisions hereof by reference in the Option or otherwise) the substance of each of the following provisions:

6.1 Term. Subject to the provisions of Section 5.2 of the Plan regarding grants of Incentive Stock Options to Ten Percent Stockholders, no Option shall be exercisable after the expiration of ten (10) years from the date it was granted.

6.2 Exercise Price of an Incentive Stock Option. Subject to the provisions of Section 5.2 of the Plan regarding Ten Percent Stockholders, the exercise price of each Incentive Stock Option shall be not less than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Option on the date the Option is granted. Notwithstanding the foregoing, an Incentive Stock Option may be granted with an exercise price lower than that set forth in the preceding sentence if such Option is granted pursuant to an assumption or substitution for another option in a manner satisfying the provisions of Section 424(a) of the Code.

6.3 Exercise Price of a Nonstatutory Stock Option. The exercise price of each Nonstatutory Stock Option shall be not less than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Option on the date the Option is granted. Notwithstanding the foregoing, a Nonstatutory Stock Option may be granted with an exercise price lower than that set forth in the preceding sentence if such Option is granted pursuant to an assumption or substitution for another option in a manner satisfying the provisions of Section 424(a) of the Code.

6.4 Consideration. The purchase price of Common Stock acquired pursuant to the exercise of an Option may be paid, to the extent permitted by applicable law and as determined by the Board in its sole discretion, by any of the methods of payment set forth below. The Board will have the authority to grant Options that do not permit all of the following methods of payment (or otherwise restrict the

ability to use certain methods) and to grant Options that require the consent of the Company to use a particular method of payment. The permitted methods of payment are as follows:

- (i) by cash, check, bank draft, or money order payable to the Company;
- (ii) pursuant to a “same-day sale” program to the extent permitted by law;
- (iii) by delivery to the Company (either by actual delivery or attestation) of shares of Common Stock;
- (iv) if an Option is a Nonstatutory Stock Option, by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of Common Stock issuable upon exercise by the number of shares with a Fair Market Value that equals the sum of the aggregate exercise price and the tax withholding obligation, rounded up to the next whole share. Shares of Common Stock will no longer be subject to an Option and will not be exercisable thereafter to the extent that (a) shares issuable upon exercise are used to pay the exercise price pursuant to the “net exercise,” (b) shares are delivered to the Participant as a result of such exercise, and (c) shares are withheld to satisfy tax withholding obligations;
- (v) promissory note;
- (vi) any other form of legal consideration that may be acceptable to the Board and specified in the applicable Award Agreement; and
- (vii) a combination of the foregoing permitted forms of consideration.

6.5 Transferability of an Incentive Stock Option. An Incentive Stock Option shall not be transferable except by will or by the laws of descent and distribution and shall be exercisable during the lifetime of the Optionee only by the Optionee.

6.6 Transferability of a Nonstatutory Stock Option. A Nonstatutory Stock Option shall be transferable to family members to the extent provided in the Option Agreement. If the Nonstatutory Stock Option does not provide for transferability to family members, then the Nonstatutory Stock Option shall not be transferable except by will or by the laws of descent and distribution and shall be exercisable during the lifetime of the Optionee only by the Optionee.

6.7 Vesting Generally. Options granted under the Plan shall be exercisable at such time and upon such terms and conditions as may be determined by the Board. The vesting provisions of individual Options may vary. If vesting is based on the Participant's Continuous Service, such Options generally will vest in equal annual installments over a four (4) year period unless otherwise determined by the Board. Notwithstanding the foregoing, the vesting of Options may be conditioned or accelerated upon achievement of performance criteria as determined by the Board or its delegee. The provisions of this Section 6.7 are subject to any Option provisions governing the minimum number of shares of Common Stock as to which an Option may be exercised.

6.8 Termination of Continuous Service. Subject to Section 6.9 below, in the event an Optionee's Continuous Service terminates (other than upon the Optionee's death or Disability), the Optionee may exercise his or her Option (to the extent that the Optionee was entitled to exercise such Option as of the date of termination) but only within such period of time as is specified in the Option Agreement (and in no event later than the expiration of the term of such Option as set forth in the Option

Agreement). If, after termination, the Optionee does not exercise his or her Option within the time specified in the Option Agreement, the Option shall terminate. In the absence of a provision to the contrary in the individual Optionee's Option Agreement, the Option shall remain exercisable for three (3) months following the termination of the Optionee's Continuous Service; provided, however, that if the Optionee's Continuous Service is terminated for Cause, the Option immediately shall terminate.

6.9 Termination of Section 16 Officers. In the event that a sale of the shares of Common Stock received upon exercise of his or her Option would subject the Optionee to liability under Section 16(b) of the Exchange Act, then the Option will expire on the earlier of (1) the fifteenth (15<sup>th</sup>) day after the last date upon which such sale would result in liability, or (2) two hundred ten (210) days following the date of termination of the Optionee's employment or other service to the Company (and in no event later than the expiration of the term of the Option).

6.10 Disability of Optionee. In the event that an Optionee's Continuous Service terminates as a result of the Optionee's Disability, the Optionee may exercise his or her Option to the extent that the Optionee was entitled to exercise such Option as of the date of termination, but only within such period of time as is specified in the Option Agreement (and in no event later than the expiration of the term of such Option as set forth in the Option Agreement). If, after termination, the Optionee does not exercise his or her Option within the time specified in the Option Agreement, the Option shall terminate. In the absence of a provision to the contrary in the individual Optionee's Option Agreement, the Option shall remain exercisable for twelve (12) months following such termination.

6.11 Death of Optionee. In the event (i) an Optionee's Continuous Service terminates as a result of the Optionee's death or (ii) the Optionee dies within the period (if any) specified in the Option Agreement after the termination of the Optionee's Continuous Service for a reason other than death, then the Option may be exercised (to the extent the Optionee was entitled to exercise such Option as of the date of death) by the Optionee's estate, by a person who acquired the right to exercise the Option by bequest or inheritance, or by a person designated to exercise the Option upon the Optionee's death pursuant to Section 6.5 or 6.6 of the Plan, as applicable, but only within such period of time as is specified in the Option Agreement (and in no event later than the expiration of the term of such Option as set forth in the Option Agreement). If, after death, the Option is not exercised within the time specified in the Option Agreement, the Option shall terminate. In the absence of a provision to the contrary in the individual Optionee's Option Agreement, the Option shall remain exercisable for twelve (12) months following the Optionee's death.

6.12 Early Exercise Generally Not Permitted. The Company's general policy is not to allow the Optionee to exercise the Option as to any part or all of the shares of Common Stock subject to the Option prior to the vesting of the Option. If, however, an Option Agreement does permit such early exercise, any unvested shares of Common Stock so purchased may be subject to a repurchase option in favor of the Company or to any other restriction the Board determines to be appropriate.

## 7. STOCK APPRECIATION RIGHTS PROVISIONS

The following terms and conditions shall govern the grant and redeemability of Stock Appreciation Rights ("SARs"):

7.1 Number of Shares. The SAR shall cover a specified number of underlying shares of Common Stock and shall be redeemable upon such terms and conditions as the Board may establish. Upon redemption of the SAR, the holder shall be entitled to receive a distribution from the Company in

an amount equal to the excess of (a) the aggregate Fair Market Value (on the redemption date) of the shares of Common Stock underlying the redeemed right over (b) the aggregate base price in effect for those shares.

7.2 Exercise Price. The number of shares of Common Stock underlying each SAR and the exercise price in effect for those shares shall be determined by the Board in its sole discretion at the time the SAR is granted. In no event, however, may the exercise price per share be less than one hundred percent (100%) of the Fair Market Value per underlying share of Common Stock on the grant date.

7.3 Form of Distribution. The distribution with respect to any redeemed SAR may be made in shares of Common Stock valued at Fair Market Value on the redemption date, in cash, or partly in shares and partly in cash, as the Board shall in its sole discretion deem appropriate; provided, however, that the total number of shares subject to the SAR shall be counted in reducing the Share Reserve to the extent the SAR is exercised.

## 8. RESTRICTED STOCK PROVISIONS

8.1 Restricted Stock Awards. Each Restricted Stock Award Agreement shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate. Restricted Stock Awards shall be paid by the Company in shares of the Common Stock of the Company. The terms and conditions of Restricted Stock Award Agreements may change from time to time, and the terms and conditions of separate Restricted Stock Award Agreements need not be identical, but each Restricted Stock Award Agreement shall include (through incorporation of provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(i) Consideration. A Restricted Stock Award may be awarded in consideration for past services actually rendered to the Company or an Affiliate for its benefit; *provided, however*, that in the case of a Restricted Stock Award to be made to a new Employee or Consultant who has not performed prior services for the Company, the Company shall require par value to be paid to ensure compliance with the General Corporation Law of the State of Delaware.

(ii) Vesting. Shares of Common Stock awarded under the Restricted Stock Award Agreement shall be subject to a share reacquisition right in favor of the Company in accordance with a vesting schedule to be determined by the Board or its delegee and set forth in the Participant's Award Agreement. If vesting is based on the Participant's Continuous Service, such Restricted Stock Award shall not fully vest in less than four (4) years. Notwithstanding the foregoing, the vesting of a Restricted Stock Award may be conditioned or accelerated upon the achievement of performance criteria as determined by the Board or its delegee.

(iii) Termination of Participant's Continuous Service. In the event a Participant's Continuous Service terminates, the Company shall automatically reacquire without cost any or all of the shares of Common Stock held by the Participant that have not vested as of the date of termination under the terms of the Award Agreement.

(iv) Transferability. Rights to acquire shares of Common Stock under the Restricted Stock Award Agreement shall be transferable by the Participant only upon such terms and conditions as are set forth in the Award Agreement, as the Board shall determine in its discretion, so long as Common Stock awarded under the Award Agreement remains subject to the terms of the Award Agreement.

(v) Dividends and Voting Rights. Shares of Common Stock shall be issued at the time of grant and such issued shares shall have the same voting rights and rights to receive dividends as all other outstanding shares of Common Stock. Prior to vesting, dividends will accumulate and shall be paid to the Participant only to the extent that the vesting conditions are subsequently satisfied and the Restricted Stock Award vests.

8.2 Restricted Stock Units. Each Restricted Stock Unit Agreement shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate. The Board may pay earned Restricted Stock Units in the form of cash or shares of Common Stock. The terms and conditions of Restricted Stock Unit Agreements may change from time to time, and the terms and conditions of separate Restricted Stock Unit Agreements need not be identical, but each Restricted Stock Unit Agreement shall include (through incorporation of provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(i) Consideration. A Restricted Stock Unit may be awarded in consideration for past services actually rendered to the Company or an Affiliate for its benefit. The Board shall have the discretion to provide that the Participant pay for such Restricted Stock Unit with cash or other consideration permissible by law.

(ii) Vesting. If vesting is based on the Participant's Continuous Service, such Restricted Stock Unit grant shall not fully vest in less than four (4) years. Notwithstanding the foregoing, the vesting of a Restricted Stock Unit may be conditioned or accelerated upon the achievement of performance criteria as determined by the Board or its delegee.

(iii) Termination of Participant's Continuous Service. The unvested portion of the Restricted Stock Unit award shall expire immediately upon the termination of Participant's Continuous Service.

(iv) Transferability. Rights to acquire the value of shares of Common Stock under the Restricted Stock Unit Award Agreement shall be transferable by the Participant only upon such terms and conditions as are set forth in the Award Agreement, as the Board shall determine in its discretion, so long as any Common Stock awarded under the Restricted Stock Unit Award Agreement remains subject to the terms of the Award Agreement.

(v) Deferral. To the extent permitted by the Board in the terms of a Participant's Restricted Stock Unit agreement, the Participant may elect to defer receipt of the value of the shares of Common Stock otherwise deliverable upon the vesting of a grant of Restricted Stock Units, so long as such deferral election complies with applicable law, including to the extent applicable, the Employment Retirement Income Security Act of 1974, as amended, ("ERISA") and Section 409A of the Code. An election to defer such delivery shall be irrevocable and shall be made in writing on a form acceptable to the Company. The election form shall be filed at least one year prior to the vesting date of such Restricted Stock Units in a manner determined by the Board. When the Participant vests in such Restricted Stock Units, the Participant will be credited with a number of Restricted Stock Units equal to the number of shares of Common Stock for which delivery is deferred. Restricted Stock Units may be paid by the Company by delivery of shares of Common Stock, in cash, or a combination thereof, as the Board shall in its sole discretion deem appropriate, in accordance with the timing and manner of payment elected by the Participant on his or her election form, or if no deferral election is made, as soon as administratively practicable following the vesting of the Restricted Stock Unit.

(vi) Dividend Equivalent Rights. The holder of a Restricted Stock Unit shall have the right to Dividend Equivalents, the value of which shall be paid to the Participant to the extent that the vesting conditions are subsequently satisfied with respect to the underlying Restricted Stock Unit. If the underlying Restricted Stock Unit is subject to a deferral election, then Dividend Equivalents will be paid out upon release of the Units.

## 9. PERFORMANCE-BASED GRANT PROVISIONS

Performance Share Units and Performance Share Awards may be granted to Employees, Directors, and Consultants at any time, as will be determined by the Board (or Committee, if so authorized by the Board), in its sole discretion. The Board will have complete discretion in determining the number of Performance Share Units/Performance Share Awards granted to each Participant provided that (i) no Participant will receive Performance Share Units having an initial Fair Market Value greater than \$1,000,000, and (ii) no Participant will receive more than 500,000 Performance Share Awards.

### 9.1 Performance Share Awards.

(i) Value of Performance Share Awards. Each Performance Share Award will have an initial value equal to the Fair Market Value of a share of Common Stock on the date of grant.

(ii) Consideration. A Performance Share Award may be awarded in consideration for past services actually rendered to the Company or an Affiliate for its benefit; *provided, however*, that in the case of a Performance Share Award to be made to a new Employee or Consultant who has not performed prior services for the Company, the Company shall require par value to be paid to ensure compliance with the General Corporation Law of the State of Delaware.

(iii) Performance Objectives and Other Terms. The Board will set performance objectives or other vesting provisions (including, without limitation, Continuous Service) at its discretion which, depending on the extent to which they are met, will determine the number or value of Performance Share Awards that will be paid out to the Participants. Each grant of Performance Share Awards will be evidenced by an Award Agreement that will specify the Performance Period, and such other terms and conditions as the Board will determine. The Board may set performance objectives based upon the achievement of Company-wide, divisional, business unit, or individual goals (including, but not limited to, continued employment or service), applicable federal or state securities laws, or any other basis determined by the Board in its discretion.

(iv) Earning of Performance Share Awards. After the applicable Performance Period has ended, the holder of Performance Share Awards may be entitled to receive a payout of the number of Performance Share Awards earned by the Participant over the Performance Period, to be determined as a function of the extent to which the applicable performance objectives or other vesting provisions have been achieved. The determination as to the achievement of the applicable performance objectives or other vesting provisions shall be certified by the Board. No Award shall vest prior to Board certification that the performance objectives have been met. The Board shall have the discretion to reduce or waive any performance objectives or other vesting provisions for such grant.

(v) Form and Timing of Payment. Payment of earned Performance Share Awards will be made as soon as practicable after the expiration of the applicable Performance Period. The Board

may pay earned Performance Share Awards in the form of (a) cash, (b) shares of Common Stock (which have an aggregate Fair Market Value equal to the value of the earned Performance Share Awards at the close of the applicable Performance Period), or (c) a combination thereof.

(vi) Dividends. Shares of Common Stock shall be issued at the time of grant of a Performance Share Award, and such issued shares shall have the same rights to receive dividends as all other outstanding shares of Common Stock. Prior to vesting, dividends will accumulate and shall be paid to the Participant only to the extent that the vesting conditions are subsequently satisfied and the Performance Share Award vests.

(vii) Cancellation. On the date set forth in the Award Agreement, all unearned or unvested Performance Share Awards will be forfeited to the Company.

## 9.2 Performance Share Units.

(i) Value of Performance Share Units. Each Performance Share Unit is the right to receive the value of one (1) share of the Company's Common Stock at the time the Performance Share Unit vests. Performance Share Units are granted at no cost to the Participant.

(ii) Performance Objectives and Other Terms. The Board will set performance objectives or other vesting provisions (including, without limitation, Continuous Service) in its discretion which, depending on the extent to which they are met, will determine the number or value of Performance Share Units that will be paid out to the Participants. Each grant of Performance Share Units will be evidenced by an Award Agreement that will specify the Performance Period, and such other terms and conditions as the Board will determine. The Board may set performance objectives based upon the achievement of Company-wide, divisional, business unit, or individual goals (including, but not limited to, Continuous Service), applicable federal or state securities laws, or any other basis determined by the Board in its discretion.

(iii) Earning of Performance Share Units. After the applicable Performance Period has ended, the holder of Performance Share Units may be entitled to receive a payout of the number of Performance Share Units earned by the Participant over the Performance Period, to be determined as a function of the extent to which the applicable performance objectives or other vesting provisions have been achieved. The determination as to the achievement of the applicable performance objectives or other vesting provisions shall be certified by the Board. No Units shall vest prior to Board certification that the performance objectives have been met. The Board shall have the discretion to reduce or waive any performance objectives or other vesting provisions for such grant.

(iv) Form and Timing of Payment. Payment of earned Performance Share Units will be made as soon as practicable after the expiration of the applicable Performance Period. The Board may pay earned Performance Share Units in the form of cash, in shares of Common Stock (which have an aggregate Fair Market Value equal to the value of the earned Performance Share Units at the close of the applicable Performance Period), or in a combination thereof.

(v) Deferral. To the extent permitted by the Board in the terms of a Participant's Award Agreement, the Participant may elect to defer receipt of the value of the shares of Common Stock otherwise deliverable upon the vesting of an award of Performance Share Units, so long as such deferral election complies with applicable law, including to the extent applicable, the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, and Section 409A of the Code. An election to

defer such delivery shall be irrevocable and shall be made in writing on a form acceptable to the Company. The election form shall be filed at least one year prior to the vesting date of such Performance Share Units in a manner determined by the Board. When the Participant vests in such Performance Share Units, the Participant will be credited with a number of Performance Share Units equal to the number of shares of Common Stock for which delivery is deferred. Performance Share Units may be paid by the Company by delivery of shares of Common Stock, in cash, or a combination thereof, as the Board shall in its sole discretion deem appropriate, in accordance with the timing and manner of payment elected by the Participant on his or her election form.

(vi) Dividend Equivalent Rights. The holder of a Performance Share Unit shall have the right to Dividend Equivalents, the value of which shall be paid to the Participant to the extent that the vesting conditions are subsequently satisfied with respect to the underlying Performance Share Unit. Dividend Equivalents will be paid out upon release of the Units.

(vii) Cancellation. On the date set forth in the Award Agreement, all unearned or unvested Performance Share Units will be forfeited to the Company.

## **10. COVENANTS OF THE COMPANY**

10.1 Availability of Shares. During the term of the Stock Awards, the Company shall keep available at all times the number of shares of Common Stock required to satisfy such Stock Awards.

10.2 Securities Law Compliance. The Company shall seek to obtain from each regulatory commission or agency having jurisdiction over the Plan such authority as may be required to grant Stock Awards and to issue and sell shares of Common Stock upon exercise, redemption, or satisfaction of the Stock Awards; *provided, however*, that this undertaking shall not require the Company to register under the Securities Act the Plan or any Stock Award or any Common Stock issued or issuable pursuant to any such Stock Award. If, after reasonable efforts, the Company is unable to obtain from any such regulatory commission or agency the authority which counsel for the Company deems necessary for the lawful issuance and sale of Common Stock under the Plan, the Company shall be relieved from any liability for failure to issue and sell Common Stock related to such Stock Awards unless and until such authority is obtained.

## **11. USE OF PROCEEDS FROM STOCK**

Proceeds from the sale of Common Stock pursuant to Stock Awards shall constitute general funds of the Company.

## **12. CANCELLATION AND RE-GRANT OF OPTIONS**

12.1 Subject to Section 12.2, the Board shall have the authority to effect at any time (i) the repricing of any outstanding Options under the Plan and/or (ii) with the consent of the affected Optionees, the cancellation of any outstanding Options under the Plan and the grant in substitution therefore of new Options under the Plan covering the same or different number of shares of Common Stock, but having an exercise price per share not less than one hundred percent (100%) of the Fair Market Value or, in the case of a grant of an Incentive Stock Option to a Ten Percent Stockholder (as described in Section 5.2 of the Plan), not less than one hundred ten percent (110%) of the Fair Market Value) per share of Common Stock on the new grant date. Notwithstanding the foregoing, the Board may grant an Option with an exercise price lower than that set forth above if such Option is granted as part of a transaction to which Section 424(a) of the Code applies.



12.2 Shares subject to an Option cancelled under this Section 12 shall continue to be counted against the maximum award of Options permitted to be granted pursuant to Section 5.3 of the Plan. The repricing of an Option under this Section 12 resulting in a reduction of the exercise price, shall be deemed to be a cancellation of the original Option and the grant of a substitute Option; in the event of such repricing, both the original and the substituted Options shall be counted against the maximum awards of Options permitted to be granted pursuant to Section 5.3 of the Plan.

### 13. MISCELLANEOUS

13.1 Acceleration of Exercisability and Vesting. The Board (or Committee, if so authorized by the Board) shall have the power to accelerate exercisability and/or vesting of any Stock Award granted under the Plan pursuant to a Change in Control or upon the death, Disability, or termination of Continuous Service of the Participant. In furtherance of such power, the Board or Committee may accelerate the time at which a Stock Award may first be exercised or the time during which a Stock Award or any part thereof will vest in accordance with the Plan, notwithstanding any provisions in the Stock Award Agreement to the contrary.

13.2 Stockholder Rights. No Participant shall be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares of Common Stock subject to a Stock Award except to the extent that the Company has issued the shares of Common Stock relating to such Stock Award.

13.3 No Employment or Other Service Rights. Nothing in the Plan or any instrument executed or Stock Award granted pursuant thereto shall confer upon any Participant any right to continue to serve the Company or an Affiliate in the capacity in effect at the time the Stock Award was granted nor shall it affect the right of the Company or an Affiliate to terminate (i) the employment of an Employee with or without notice and with or without cause, or (ii) the service of a Consultant pursuant to the terms of such Consultant's agreement with the Company or an Affiliate.

13.4 Nonemployee Director Limitation. (i) Cash-settled Awards. No Nonemployee Director may be granted cash-settled Stock Awards with a grant date fair value in excess of \$500,000 (determined in accordance with U.S. generally accepted accounting principles ["GAAP"]) in the fiscal year of his or her initial service as a Nonemployee Director and no greater than \$250,000 per fiscal year thereafter. (ii) Stock-settled Awards. No Nonemployee Director may be granted stock-settled Stock Awards with a grant date fair value in excess of \$500,000 (determined in accordance with U.S. GAAP) in the fiscal year of his or her initial service as a Nonemployee Director and no greater than \$250,000 per fiscal year thereafter. Any Stock Awards granted to an individual while he or she was an Employee, or while he or she was a Consultant but not a Nonemployee Director, will not count for purposes of the limitations under this Section 13.

13.5 Incentive Stock Option \$100,000 Limitation. To the extent that the aggregate Fair Market Value (determined at the time of grant) of Common Stock with respect to which Incentive Stock Options are exercisable for the first time by any Optionee during any calendar year (under all plans of the Company and its Affiliates) exceeds One Hundred Thousand dollars (\$100,000), or such other limit as may be set by law, the Options or portions thereof which exceed such limit (according to the order in which they were granted) shall be treated as Nonstatutory Stock Options.

13.6 Investment Assurances. The Company may require a Participant, as a condition of exercising or redeeming a Stock Award or acquiring Common Stock under any Stock Award,

(i) to give written assurances satisfactory to the Company as to the Participant's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of acquiring the Common Stock;

(ii) to give written assurances satisfactory to the Company stating that the Participant is acquiring Common Stock subject to the Stock Award for the Participant's own account and not with any present intention of selling or otherwise distributing the Common Stock; and

(iii) to give such other written assurances as the Company may determine are reasonable in order to comply with applicable law.

The foregoing requirements, and any assurances given pursuant to such requirements, shall be inoperative if (a) the issuance of the shares of Common Stock under the Stock Award has been registered under a then currently effective registration statement under the Securities Act or (b) as to any particular requirement, a determination is made by counsel for the Company that such requirement need not be met in the circumstances under the then applicable securities laws, and in either case otherwise complies with applicable law. The Company may, upon advice of counsel to the Company, issue stop transfer instructions for shares issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable laws, including, but not limited to, instructions restricting the transfer of the Common Stock.

13.7 Withholding Obligations. To the extent provided by the terms of a Stock Award Agreement, the Participant may satisfy any federal, state, local, or foreign tax withholding obligation relating to the exercise or redemption of a Stock Award or the acquisition, vesting, distribution, or transfer of Common Stock under a Stock Award by any of the following means (in addition to the Company's right to withhold from any compensation or other amounts payable to the Participant by the Company) or by a combination of such means:

(i) tendering a cash payment;

(ii) withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to the Participant in connection with the Stock Award;

(iii) withholding cash from an award settled in cash;

(iv) withholding payment from any amounts otherwise payable to the Participant, including proceeds from the sale of shares of Common Stock issued pursuant to a Stock Award;

(v) delivering to the Company owned and unencumbered shares of Common Stock;

or

(vi) by such other method as may be set forth in the Award Agreement.

13.8 Section 409A. Notwithstanding anything in the Plan to the contrary, it is the intent of the Company that all Stock Awards granted under this Plan shall not cause an imposition of the additional taxes provided for in Section 409A(a)(1)(B) of the Code; furthermore, it is the intent of the Company that the Plan shall be administered so that the additional taxes provided for in Section 409A(a)(1)(B) of

the Code are not imposed. In the event that the Company determines in good faith that any provision of this Plan does not comply with Section 409A of the Code, the Company may amend this Plan to the minimum extent necessary to cause the Plan to comply.

## **14. ADJUSTMENTS UPON CHANGES IN STOCK**

14.1 Capitalization Adjustments. If any change is made in the Common Stock subject to the Plan, or subject to any Stock Award, without the receipt of consideration by the Company (through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, spinoff, dividend in property other than cash, stock split, reverse stock split, liquidating dividend, extraordinary dividends or distributions, combination of shares, exchange of shares, change in corporate structure, or other transaction not involving the receipt of consideration by the Company), the Board or, if applicable, the Committee, shall make appropriate and proportionate adjustments to the class(es) and maximum number of securities subject to the Plan pursuant to Section 4.1 above, and the class(es) and number of securities or other property and price per share of the securities or other property subject to outstanding Stock Awards. (The conversion of any convertible securities of the Company shall not be treated as a transaction "without receipt of consideration" by the Company.)

### 14.2 Adjustments Upon a Change in Control.

(i) In the event of a Change in Control, as defined in Section 2.6, or change in Board composition, the Board or the board of directors of any surviving entity or acquiring entity may provide or require that the surviving or acquiring entity shall: (1) assume or continue all or any part of the Stock Awards outstanding under the Plan, or (2) substitute substantially equivalent stock awards (including an award to acquire substantially the same consideration paid to the stockholders of the Company in the transaction by which the Change in Control occurs) for those outstanding under the Plan. In the event any surviving entity or acquiring entity refuses to assume or continue such Stock Awards or to substitute similar stock awards for those outstanding under the Plan, then with respect to Stock Awards held by Participants whose Continuous Service has not terminated, the Board in its sole discretion and without liability to any person may: (1) provide for the payment of a cash amount in exchange for the cancellation of a Stock Award equal to the product of (x) the excess, if any, of the Fair Market Value per share of Common Stock at such time over the exercise or redemption price, if any, times (y) the total number of shares then subject to such Stock Award; (2) continue the Stock Awards; or (3) notify Participants holding an Option, Stock Appreciation Right, Restricted Stock Unit, or Performance Share Unit that they must exercise or redeem any portion of such Stock Award (including, at the discretion of the Board, any unvested portion of such Stock Award) at or prior to the closing of the transaction by which the Change in Control occurs and that the Stock Awards shall terminate if not so exercised or redeemed at or prior to the closing of the transaction by which the Change in Control occurs. With respect to any other Stock Awards outstanding under the Plan, such Stock Awards shall terminate if not exercised or redeemed prior to the closing of the transaction by which the Change in Control occurs. The Board shall not be obligated to treat all Stock Awards, even those that are of the same type, in the same manner.

(ii) In the event of a Change in Control as defined in Section 2.6(v), such as a dissolution of the Company, all outstanding Stock Awards shall terminate immediately prior to such event.

## **15. AMENDMENT OF THE PLAN AND STOCK AWARDS**

15.1 Amendment of Plan. The Board at any time may amend the Plan. However, except as provided in Section 14 of the Plan relating to adjustments upon changes in Common Stock, no amendment shall be effective unless approved by the stockholders of the Company to the extent stockholder approval is necessary to satisfy the requirements of the Code, any recognized securities exchange listing requirements, or other applicable law or regulation.

15.2 Stockholder Approval. The Board may, in its sole discretion, submit any other amendment to the Plan for stockholder approval.

15.3 Contemplated Amendments. It is expressly contemplated that the Board may amend the Plan in any respect the Board deems necessary or advisable to provide eligible Employees with the maximum benefits provided or to be provided under the provisions of the Code and the regulations promulgated thereunder relating to Incentive Stock Options and/or to bring the Plan and/or Incentive Stock Options granted under it into compliance therewith.

15.4 No Reduction of Rights. Rights under any Stock Award granted before amendment of the Plan shall not be reduced by any amendment of the Plan unless (i) the Company requests the consent of the Participant and (ii) the Participant consents in writing.

15.5 Amendment of Stock Awards. The Board at any time may amend the terms of any one or more Stock Awards subject to and consistent with the terms of the Plan, including Sections 14.1 and 14.2; *provided, however*, that the rights of the Participant under any Stock Award shall not be reduced by any such amendment unless (i) the Company requests the consent of the Participant and (ii) the Participant consents in writing.

## 16. TERMINATION OR SUSPENSION OF THE PLAN

16.1 Plan Term. The Board may suspend or terminate the Plan at any time. Unless sooner terminated, the Plan shall terminate on the tenth (10<sup>th</sup>) anniversary of the date that the Plan is adopted. No Stock Awards may be granted under the Plan while the Plan is suspended or after it is terminated.

16.2 No Reduction of Rights. Suspension or termination of the Plan shall not reduce rights and obligations under any Stock Award granted while the Plan is in effect except with the written consent of the Participant.

## 17. EFFECTIVE DATE OF PLAN

17.1 Effective Date. The Plan shall become effective upon its initial adoption by the Board and shall continue in effect until it is terminated under Section 16 of the Plan. No Stock Awards may be issued under the Plan after the tenth (10<sup>th</sup>) anniversary of the earlier of (i) the date upon which the Plan is adopted by the Board or (ii) the date the Plan is approved by the Company's stockholders.

17.2 Stockholder Approval. The Plan will be submitted for the approval of the Company's stockholders within twelve (12) months after the date of the Board's initial adoption of the Plan. Stock Awards may be granted or awarded prior to such stockholder approval, provided that such Stock Awards shall not be exercisable, shall not vest, and the restrictions thereon shall not lapse prior to the time when the Plan is approved by the stockholders, and provided further that if such approval has not been obtained at the end of said twelve-month period, all Stock Awards previously granted or awarded under the Plan shall thereupon be canceled and become null and void.

## 18. CHOICE OF LAW

The law of the State of Delaware shall govern all questions concerning the construction, validity, and interpretation of this Plan, without regard to such state's conflict of laws rules.

# XYZ CORPORATION

## STOCK OPTION AGREEMENT

1. Grant of Option. XYZ Corporation, a Delaware corporation (the “Company”), hereby grants to Optionee (“Optionee”) named in the corresponding Notice of Stock Option Grant (including any exhibits thereto, the “Notice”), an option (the “Option”) to purchase a total number of shares of Common Stock (the “Shares”) set forth in the Notice, at the exercise price per share (the “Exercise Price”) set forth in the Notice, subject to the terms, definitions and provisions of the XYZ Corporation Equity Incentive Plan, which is incorporated herein by reference, and the terms of this Stock Option Agreement (including any exhibits hereto, the “Agreement”). Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Agreement. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Agreement, the terms and conditions of the Plan shall prevail.

2. Exercise of Option. The Option shall be exercisable during its term in accordance with the Vesting Schedule set out in the Notice so long as Optionee continues as an Employee, Director, or Consultant, as the case may be, and with the provisions of the Plan as set forth below. A change in status of Optionee from his or her status at the time of grant or during the term of the Option (e.g. (i) Optionee is a Consultant at the time of grant and who subsequently becomes an Employee, or (ii) Optionee is an Employee at the time of grant and who subsequently becomes a Consultant) shall not be deemed a termination of employment or service with the Company at the time of such change in status; a change in status of Optionee from his or her status at the time of grant or during the term of the Option whereby (a) Optionee is an Employee and a Director and who subsequently becomes a Nonemployee Director or (b) Optionee is a Nonemployee Director and who subsequently becomes an Employee and a Director shall not be deemed a termination of employment or service with the Company. Upon a termination of employment or service, unless otherwise provided by the Board in its sole discretion, vesting of the Shares shall immediately cease in full.

(i) Right to Exercise.

(a) The Option may not be exercised for a fraction of a Share.

(b) In the event of Optionee’s death, disability, or other termination of employment or service with the Company, the exercisability of the Option is governed by Sections 5, 6, and 7 below, subject to the limitation contained in subsection 2(i)(a).

(c) In no event may the Option be exercised after the Expiration Date as set forth in the Notice.

(d) If this Option is designated as an Incentive Stock Option in the Notice, in the event that the Shares subject to the Option (and all other Incentive Stock Options granted to Optionee by the Company or any Parent or Subsidiary) that become exercisable in any calendar year have an aggregate Fair Market Value (determined for each Share as of the Date of Grant of the option covering such Share) in excess of \$100,000, the Shares in excess of \$100,000 shall be treated as subject to a Nonstatutory Stock Option, in accordance with the terms of the Plan. An Incentive Stock Option is a stock option that is intended, as such intention is designated in the Notice, to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(ii) Method of Exercise.

(a) The Option shall be exercisable by (1) electronic or physical delivery of a written notice (in the form attached hereto as Exhibit A), which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the "Exercised Shares"), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan or (2) by executing a "same-day sale" through the Company's designated broker. The notice shall be electronically acknowledged and agreed to by the Optionee and shall be delivered by electronic transmission to the equity compensation department of the Company, or in the case of written notice shall be delivered in person or by certified mail to the equity compensation department of the Company, and in either case shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. The Option shall be deemed to be exercised upon receipt by the Company of such written notice accompanied by such aggregate Exercise Price or by Optionee's execution of a "same-day sale" with the Company's designated broker.

(b) As a condition to the exercise of the Option, Optionee agrees to make adequate provision for federal, state, or other tax withholding obligations, if any, which arise upon the exercise of the Option or disposition of Shares, whether by withholding, direct payment to the Company, or otherwise.

(c) No Shares will be issued pursuant to the exercise of the Option unless such issuance and such exercise shall comply with all relevant provisions of applicable laws. Assuming such compliance, for income tax purposes the Exercised Shares shall be considered transferred to Optionee on the date on which the Option is exercised with respect to such Exercised Shares.

3. Method of Payment. Payment of the Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

(i) cash;

(ii) check;

(iii) broker assisted same-day sale;

(iv) surrender of other Shares which have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which the Option is being exercised; or

(v) provided that at the time of exercise the Company has established procedures for "net exercise," by a "net exercise" arrangement pursuant to which the Company will reduce the number of shares of Common Stock issuable upon exercise by the number of shares with a Fair Market Value that equals the sum of the aggregate Exercise Price and tax withholding obligation, rounded up to the next whole share, *provided, however*, that no additional whole shares of Common Stock with a value exceeding the maximum individual statutory tax rate in the applicable jurisdiction are withheld. Provided, further, that shares of Common Stock will no longer be subject to an Option and will not be exercisable thereafter to the extent that (a) shares issuable upon exercise are reduced to pay the exercise price pursuant to the "net exercise," (b) shares are delivered to Optionee as a result of such exercise, and (c) shares are withheld to satisfy tax withholding obligations.

4. Restrictions on Exercise. The Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a

violation of any applicable laws. Furthermore, the Company, in its sole discretion, may prohibit Optionee from executing a cashless exercise with respect to the Option regardless of any other provision of this Agreement or the related Notice or other agreement or document relating to this Option.

5. Termination of Relationship.

(i) In the event of the termination of Optionee's employment or service with the Company, Optionee may, to the extent otherwise so entitled at the date of such termination (the "Termination Date"), exercise the Option during the Termination Period set out in the Notice. To the extent that Optionee was not entitled to exercise the Option at the date of such termination, or if Optionee does not exercise the Option within the time specified herein, the Option shall terminate.

(ii) In the event of a change in status that is not deemed to be a termination of employment or service with the Company (in accordance with Section 2 above), this Option shall continue in full force and effect, and the Shares subject to this Option shall continue to vest in accordance with the Vesting Schedule set out in the Notice.

(iii) Notwithstanding the foregoing, if Optionee's employment or service with the Company is terminated for Cause, the Option immediately shall terminate. "Cause" shall be defined as in the Plan.

6. Disability of Optionee. Notwithstanding the provisions of Section 5 above, in the event of termination of Optionee's employment or service with the Company as a result of Optionee's Disability, Optionee may, but only within twelve (12) months from the date of such termination (but in no event later than the expiration date of the term of such Option as set forth in Section 9 below), exercise the Option to the extent otherwise entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise the Option at the date of such termination, or if Optionee does not exercise the Option within the time specified herein, the Option shall terminate.

7. Death of Optionee. In the event of the death of Optionee, the Option may be exercised at any time within twelve (12) months following the date of Optionee's death (but in no event later than the date of expiration of the term of the Option as set forth in Section 9 below), by Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, by the laws of descent and distribution, but only to the extent Optionee could exercise the Option at the date of death. To the extent that Optionee was not entitled to exercise the Option at the date of such termination, or if Optionee's estate or the person who acquired the right to exercise the Option by bequest, inheritance, or the laws of descent and distribution, does not exercise the Option within the time specified herein, the Option shall terminate.

8. Non-Transferability of Option. The Option may not be transferred in any manner other than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by Optionee. The terms of the Option shall be binding upon the executors, administrators, heirs, successors, and assigns of Optionee.

9. Term of Option. The Option may be exercised only within the term set out in the Notice, and may be exercised during such term only in accordance with the Plan and the terms of this Agreement. If this Option is designated in the Notice as an Incentive Stock Option, this Option shall be subject to any applicable limitations on its term as imposed under the Plan or the Applicable Laws.



10. Changes in Control.

(i) In the event of a Change in Control, this Option shall be treated as follows.

(ii) In the event of a Change in Control, this Option will be assumed or an equivalent option will be substituted by the successor corporation or a parent or subsidiary of such successor corporation, unless the successor corporation does not agree to assume this Option or to substitute an equivalent option, in which case this Option will terminate upon the consummation of the Change in Control.

(iii) Without limiting the preceding paragraph, and except as otherwise explicitly set forth below, if at any time during the period commencing one (1) month prior to the effective time of such Change in Control and ending twelve (12) months after the effective time of such Change in Control, Optionee's service with the Company (or the successor thereto) terminates either (a) due to an involuntary termination by the Company (or the successor thereto) of Optionee's service relationship with the Company (or the successor thereto) without "Cause" (as defined in the Plan), or (b) due to a voluntary termination of Optionee's service relationship with the Company by Optionee within three (3) months of the occurrence of an event constituting "Good Reason" (as defined in the Plan), then, subject to Optionee's timely execution and delivery of an effective release of all claims in favor of the Company (and the successor thereto), as of the date of termination of service (and provided that, at such time, this Option continues in full force or the successor has assumed this Option or substituted an equivalent award), 100% of the unvested portion of the Option shall become fully vested and exercisable to the extent not previously vested or exercisable. In no event shall a termination of employment or other service relationship on account of death or Disability constitute a termination without Cause or a voluntary termination with Good Reason.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the state of Delaware.

12. Whole Agreement. The Plan and Notice are hereby incorporated by reference and made a part hereof. The Option and this Agreement shall be subject to all terms and conditions of the Plan and the Notice. Optionee acknowledges that the Notice, this Agreement, and the Plan set forth the entire understanding between Optionee and the Company regarding the terms and conditions of this Option and supersede all prior oral and written agreements on the subjects set forth herein, except as, and only to the extent that, such other agreements are expressly incorporated by reference herein.

13. Amendments. This Agreement may be amended or modified at any time only by an instrument in writing signed by each of the parties hereto.

14. Rights as a Stockholder. Neither Optionee nor any of Optionee's successors in interest shall have any rights as a stockholder of the Company with respect to any Shares subject to the Option until the date the Shares are electronically delivered to Optionee's brokerage account.

The signatures of the Company and Optionee on the Notice bind each such party to the terms of this Agreement.

**EXHIBIT A  
XYZ CORPORATION EXERCISE NOTICE**

Optionee Name:		Employee ID #:	
Home Address:		Daytime Phone Number:	

<i>Option(s) Exercised:</i>							<i>(1) x (2) = (3)</i>
Plan	Option Number	Option Date	NSO** or ISO?	(1) Option Price Per Share	(2) Number of Shares To be exercised	(3) Total Exercise Option Price	
				\$		\$	
				\$		\$	
				\$		\$	
				\$		\$	
						\$	
						Subtotal:	
						** Total NSO	
						Taxes Due:	
<b>Totals</b>						\$	

***Payment and Issuance Instructions:***

Method of Exercise (Please Check One)

- Cash Exercise (Exercise and Hold)  
 Same-Day Sale (Exercise and sell all shares)  
 Stock Swap (Use value of owned shares to cover full exercise price and value of shares issuable to cover required taxes)  
 Net Exercise (Use value of shares issuable to cover full exercise price and required taxes)

**Issue the shares as designated below:**

My \_\_\_\_\_ account

Account #: \_\_\_\_\_

My \_\_\_\_\_ account

Account #: \_\_\_\_\_

**EXHIBIT A**  
**XYZ CORPORATION EXERCISE NOTICE**

***Representations:***

I do NOT have access to, nor am I aware of, any material non-public information regarding XYZ Corporation, which could *or has* influenced my decision to purchase and/or sell this stock.

\_\_\_\_\_ *Initial*

I hereby agree to notify XYZ Corporation upon the transfer/sale of my shares acquired under any ISO exercise and agree to hold harmless XYZ Corporation regarding the reporting of income subject to the transfer/sale of these shares. I am not relying on XYZ Corporation for any tax advice.

\_\_\_\_\_ *Initial*

**FOR EXECUTIVE OFFICERS AND DIRECTORS ONLY**

I AM an executive officer and/or director of XYZ Corporation and I (initial for each response):

\_\_\_\_\_ have reviewed my transactions relative to Section 16.

\_\_\_\_\_ have held this option 6 months from the Date of Grant.

\_\_\_\_\_ am required to sell pursuant to Rule 144 & have filed the necessary documentation.

\_\_\_\_\_ understand that I am required to file a Form 4 within two business days after this transaction.

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The undersigned holder of the stock option(s) described above irrevocably exercises such option(s) as set forth and herewith makes payment therefore, all at the price and on the terms and conditions specified in the stock option agreement(s) pertaining to the option(s) exercised.

**INSTRUCTIONS: Mail this completed exercise form and check, made payable to:**

\_\_\_\_\_, *Attn: Equity Compensation Department*

\_\_\_\_\_  
Optionee Signature

\_\_\_\_\_  
Date

# Notice of Stock Option Grant

XYZ Corporation

TIN: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State (Zip +4)

---

[First Name] [Last Name]	Option Number:	[Number]
[Address]	Plan:	XYZ Equity Incentive Plan
[City], [State] [Zip Code]	Vesting Commencement	
	Date:	[Vesting Commencement Date]

Effective [Option Date] (the “Date of Grant”), you have been granted a(n) [Option Type] (this “Option”) to purchase [shares] shares of XYZ Corporation (the “Company”) common stock at USD [Option Price] per share with an expiration date of seven years from the date of grant.

This Notice of Stock Option Grant (this “Notice”), together with the XYZ Corporation Equity Incentive Plan (the “Plan”) and the corresponding Stock Option Agreement (the “Stock Option Agreement”) and any exhibits (collectively, the “Stock Option Documents”) delivered to you and in effect as of the Date of Grant, contain the terms of your Option. The Plan and the Stock Option Agreement are hereby incorporated by reference and made a part of this Notice.

## Vesting Schedule

Except as otherwise set forth in the Stock Option Documents, the shares subject to this Option will vest in each period as follows:

This option will vest in equal annual installments over a four (4) year period based on the Vesting Commencement Date.

\*If the vesting schedule described herein would result in the vesting of a fractional a Share on any vesting date, that fractional Share shall be rounded down to the nearest whole Share, with any fractional portion carried forward.

## Termination Period

This Option, to the extent then exercisable, may be exercised for a period of 3 months after termination of your employment (or consulting relationship if you are not an employee), except as set out in the Stock Option Agreement (but in no event later than the Expiration Date). You are responsible for keeping track of these exercise periods. The Company has no duty to, and will not, provide further notice of such dates.

## Governing Law and Documents

This Option is governed by, and subject to, the Stock Option Documents. Capitalized terms not defined in this Notice have the meanings given to them in the Plan and Stock Option Agreement. This Option is further governed by, and subject to, the internal laws of the State of Delaware. If you have received this or any other document related to the Plan or this Option translated into a language other than English, the English version will control in the event of any conflicts.

### **Severability**

If one or more of the provisions of the Stock Option Documents shall be held invalid, illegal, or unenforceable in any respect:

- (a) the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby;
- (b) the invalid, illegal, or unenforceable provision shall be deemed null and void, subject to “(c)” below: and
- (c) to the extent permitted by applicable law, any invalid, illegal, or unenforceable provision shall be construed, interpreted, or revised retroactively to comply with applicable law and to achieve the intent of the Award Agreement.

### **Acknowledgment and Agreement**

By signing below, you agree that you have read and agree to the terms of the Award Agreement.

---

**Name**

**Date**

## EXHIBIT A

### **REPRESENTATIONS AND WARRANTIES (Domestic Optionees)**

#### **Plan Document**

By acknowledging and agreeing to the Option on the terms set forth in the Stock Option

Documents, you represent and warrant to the Company that:

- (a) you have received a copy of the Plan and your Award Agreement, under which the Option is granted and governed;
- (b) you have read and reviewed the Plan and your Award Agreement in their entirety;
- (c) you have had a reasonable opportunity to obtain the advice of counsel prior to executing the Notice and have done so or knowingly declined to do so;
- (d) you fully understand all provisions of the Plan and your Award Agreement;
- (e) you hereby agree to accept as binding, conclusive, and final all decisions or interpretations of the Board upon any questions arising under the Plan and your Award Agreement;
- (f) your rights to any shares underlying this Option will be earned only over time as you provide services to the Company;
- (g) the grant of the Option is not consideration for services you rendered to the Company prior to your Vesting Commencement Date; and
- (h) nothing in the Plan or your Award Agreement confers upon you any right to continue your current employment or consulting relationship with the Company for any period of time, nor does it interfere in any way with your right or the Company's right to terminate that relationship at any time, for any reason, with or without cause.

## XYZ CORPORATION

### RESTRICTED STOCK UNIT AGREEMENT

Pursuant to the terms of the Restricted Stock Unit Grant Notice (“Grant Notice”) and this Restricted Stock Unit Agreement (“Agreement”) (collectively, the “Award”), XYZ Corporation (the “Company”) grants Participant as an inducement for Participant’s acceptance of employment with the Company or in consideration for Participant’s services to the Company prior to the issuance of any shares of Common Stock as well as other benefits to the Company within the meaning of Section 152 of the Delaware General Corporation Law, Restricted Stock Units pursuant to the Company’s Equity Incentive Plan (“Plan”), subject to the restrictions and conditions contained herein.

The details of Participant’s Award are as follows:

1. **Grant of Units.** XYZ Corporation, a Delaware corporation (the “Company”), hereby grants to the participant (“Participant”) named in the corresponding Notice of Restricted Stock Unit Grant (including any exhibits thereto, the “Notice”), an award (the “Award”) to receive a total number of Units. Each Unit represents the right to receive one (1) share of Common Stock (the “Shares”) set forth in the Notice, subject to the terms, definitions, and provisions of the XYZ Corporation Equity Incentive Plan, which is incorporated herein by reference, and the terms of this Restricted Stock Unit Agreement (including any exhibits hereto, the “Agreement”). Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Agreement. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Agreement, the terms and conditions of the Plan shall prevail.

2. **Payment; Tax Withholding.** No cash payment is required for the Units, although Participant will be required to tender payment in a form acceptable to the Company for the amount of any withholding taxes due, including but not limited to those amounts due as a result of the award or vesting of the Units or the issuance of any shares of Common Stock following the vesting of the Units. Such amount may be delivered to the Company by any of the following means (in addition to the Company’s right to withhold from any compensation or other amounts payable to Participant by the Company) or by a combination of such means: (i) tendering a cash payment; (ii) authorizing the Company to withhold shares of Common Stock from the shares of Common Stock otherwise issuable to Participant, rounded up to the nearest whole share, *provided, however*, that no additional whole shares of Common Stock with a value exceeding the maximum individual statutory tax rate in the applicable jurisdiction are withheld; (iii) delivering to the Company owned and unencumbered shares of Common Stock or (iv) either through a voluntary or mandatory sale arranged by the Company (on the Grantee’s behalf pursuant to this authorization).

3. **Vesting.** Subject to the limitations contained herein, the Units will vest as provided in the Grant Notice, provided that Participant continues as an Employee, Director, or Consultant, as the case may be, and with the provisions of the Plan as set forth below. A change in status of Participant from his or her status at the time of grant or during the term of the Award (e.g. (i) Participant is a Consultant at the time of grant and subsequently becomes an Employee

or (ii) Participant is an Employee at the time of grant and subsequently becomes a Consultant) shall not be deemed a termination of employment or service with the Company at the time of such change in status; a change in status of Participant from his or her status at the time of grant or during the term of the Award whereby (i) Participant is an Employee and a Director and who subsequently becomes a Nonemployee Director or (ii) Participant is a Nonemployee Director and who subsequently becomes an Employee and a Director shall not be deemed a termination of employment or service with the Company. The unvested portion of Participant's Award will expire upon termination of Continuous Service.

4. Conversion of Units and Issuance of Shares. Upon each vesting date, one (1) share of Common Stock shall be issuable for each whole Unit that vests on such date (the "Shares"), subject to the terms and provisions of the Plan and this Agreement. Thereafter, the Company will transfer such Shares to Participant upon satisfaction of any tax withholding obligations. The number of Units subject to Participant's Award shall be adjusted from time to time for changes in capitalization, as provided in Section 14 of the Plan. At the date which all Units have fully vested (the "Final Vesting Date"), any fractional Unit shall be paid to the Participant in cash.

5. Dividend Equivalent Payments. Upon each vesting date, Participant shall receive a cash payment equal to any dividends paid on the shares of Common Stock that vested on such vesting date for the period beginning on the Vesting Commencement Date and ending on such vesting date, minus any withholding taxes due on the payment and without any accrual of interest or other earnings on such Dividend Equivalents. The number of Dividend Equivalents so paid shall be equal to the number of underlying Restricted Stock Units. If the Restricted Stock Unit Grant fails to vest for any reason, no such payment will be made.

6. Securities Law Compliance. Participant will not be issued any Shares upon the vesting of Participant's Award unless the Shares are either (i) then registered under the Securities Act or (ii) the Company has determined that such issuance would be exempt from the registration requirements of the Securities Act. Participant's Award must also comply with other applicable laws and regulations governing the Award, and Participant will not receive such Shares if the Company determines that such receipt would not be in material compliance with such laws and regulations.

7. Non-Transferability of Award. None of the Units or any beneficial interest therein may be transferred in any manner other than by will or by the laws of descent or distribution. The terms of the Units shall be binding upon the executors, administrators, heirs, successors, and assigns of Participant.

8. Award Not A Service Contract. Participant's Award is not an employment or service contract, and nothing in Participant's Award shall be deemed to create in any way whatsoever any obligation on Participant's part to continue in the employ of the Company or an Affiliate, or on the part of the Company or an Affiliate to continue Participant's employment.

9. Tax Consequences. Participant agrees that Participant has had the opportunity to review with Participant's own tax advisors the federal, state, local, and foreign income and employment tax consequences of the grant to Participant of the Award and the vesting of the



Award. Participant is relying solely on the advice of Participant's own advisors and not on statements or representations of the Company or any of its agents. Participant understands that Participant (and not the Company) will be responsible for Participant's own tax liability as a result of the grant or vesting of Participant's Award.

10. Notices. Any notices provided for in Participant's Award or the Plan shall be given in writing and shall be deemed effective upon receipt or, in the case of notices delivered by the Company to Participant, five (5) days after deposit in the United States mail, postage prepaid, addressed to Participant at the last address Participant provided to the Company.

11. Miscellaneous.

(a) The rights and obligations of the Company under Participant's Award shall be transferable by the Company to any one or more persons or entities, and all covenants and agreements hereunder shall inure to the benefit of, and be enforceable by the Company's successors and assigns.

(b) Participant agrees upon request to execute any further documents or instruments necessary or desirable in the sole determination of the Company to carry out the purposes or intent of Participant's Award.

(c) Participant acknowledges and agrees that Participant has reviewed Participant's Award in its entirety, has had an opportunity to obtain the advice of counsel prior to executing and accepting Participant's Award and fully understands all provisions of Participant's Award.

12. Governing Plan Document. Participant's Award is subject to all the provisions of the Plan, the provisions of which are hereby made a part of Participant's Award, and is further subject to all interpretations, amendments, rules and regulations which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the provisions of Participant's Award and those of the Plan, the provisions of the Plan shall control.

13. Choice of Law; Governing Law. The law of the State of Delaware shall govern all questions concerning the construction, validity, and interpretation of the Plan, without regard to such state's conflict of laws rules. Participant hereby agrees to submit to the jurisdiction and venue of the courts of the State of Delaware and Federal Courts of the United States of America located within said state for all actions relating to the Restricted Stock Units, the Shares, the Notice of Grant, this Agreement, or the Plan. Participant further agrees that service may be made upon Participant in any such action or proceeding by first class, certified, or registered mail, to the last address Participant provided to the Company.

# Notice of Restricted Stock Unit Grant

XYZ Corporation  
TIN: \_\_\_\_\_  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State (Zip +4)

---

[First Name] [Last Name]      Award Number:      [Number]  
[Address]      Plan:      XYZ Equity Incentive Plan  
[City], [State] [Zip Code]      Vesting Commencement Date: [Vesting Commencement Date]

Effective [Award Date] (the “Date of Grant”), you have been granted a Restricted Stock Unit (this “Grant”) for [number of Units] Units. This Grant has an expiration date of [Expire Date].

This Notice of Restricted Stock Unit Grant (this “Notice”), together with the XYZ Corporation Equity Incentive Plan (the “Plan”) and the corresponding Restricted Stock Unit Agreement (the “Agreement”) and any exhibits (collectively, the “Restricted Stock Unit Documents”) delivered to you and in effect as of the Date of Grant, contain the terms of your Grant. The Plan and the Restricted Stock Unit Agreement are hereby incorporated by reference and made a part of this Notice.

## Vesting Schedule

Except as otherwise set forth in the Restricted Stock Unit Documents, the Units subject to this Grant will vest in each period as follows:  
This Grant will vest in equal annual installments over a four (4) year period based on the Vesting Commencement Date.

\*If the vesting schedule described herein would result in the vesting of a fraction of a Unit on any vesting date, that fractional Unit shall be rounded down to the nearest whole Unit, with any fractional portion carried forward.

## Governing Law and Documents

This Grant is governed by, and subject to, the Restricted Stock Unit Documents. Capitalized terms not defined in this Notice have the meanings given to them in the Plan and Restricted Stock Unit Agreement. This Grant is further governed by, and subject to, the internal laws of the State of Delaware. If you have received this or any other document related to the Plan or this Grant translated into a language other than English, the English version will control in the event of any conflicts.

## Severability

If one or more of the provisions of the Restricted Stock Unit Documents shall be held invalid, illegal, or unenforceable in any respect:

- (a) the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby;

- (b) the invalid, illegal, or unenforceable provision shall be deemed null and void, subject to “(c)” below: and
- (c) to the extent permitted by applicable law, any invalid or illegal, or unenforceable provision shall be construed, interpreted, or revised retroactively to comply with applicable law and to achieve the intent of the Restricted Stock Unit Documents.

**Acknowledgment and Agreement**

By signing below, you agree that you have read and agree to the terms of each of the Restricted Stock Unit Documents (defined above).

---

**Name**

**Date**

**EXHIBIT A**

**REPRESENTATIONS AND WARRANTIES  
(Domestic Participants)**

**Plan Document**

By acknowledging and agreeing to the Grant on the terms set forth in the Restricted Stock Unit Documents, you represent and warrant to the Company that:

- (a) you have received a copy of the Restricted Stock Unit Documents, under which the Grant is awarded and governed;
- (b) you have read and reviewed the Restricted Stock Unit Documents in their entirety;
- (c) you have had a reasonable opportunity to obtain the advice of counsel prior to executing the Notice and have done so or knowingly declined to do so;
- (d) you fully understand all provisions of the Restricted Stock Unit Documents;
- (e) you hereby agree to accept as binding, conclusive, and final all decisions or interpretations of the Board upon any questions arising under the Restricted Stock Unit Documents;
- (f) your rights to any shares underlying this Grant will be earned only over time as you provide services to the Company;
- (g) this Grant is not consideration for services you rendered to the Company prior to your Vesting Commencement Date; and
- (h) nothing in the Restricted Stock Unit Documents confers upon you any right to continue your current employment or consulting relationship with the Company for any period of time, nor does it interfere in any way with your right or the Company's right to terminate that relationship at any time, for any reason, with or without cause.