

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

**FORM 8-K**

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

**Date of Report (Date of earliest event reported): April 28, 2020**

**Hanesbrands Inc.**  
(Exact name of registrant as specified in its charter)

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

**001-32891**  
(Commission  
File Number)

**20-3552316**  
(IRS Employer  
Identification No.)

**1000 East Hanes Mill Road**  
**Winston-Salem, North Carolina**  
(Address of principal executive offices)

**27105**  
(Zip Code)

**(336) 519-8080**  
(Registrant's telephone number, including area code)

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>Common stock, Par Value \$0.01</b>	<b>HBI</b>	<b>New York Stock Exchange</b>

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

Emerging growth company

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

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

As described below, on April 28, 2020, at the 2020 Annual Meeting of Stockholders (the “Annual Meeting”) of Hanesbrands Inc. (the “Company”), the stockholders of the Company approved the Hanesbrands Inc. 2020 Omnibus Incentive Plan (the “Omnibus Plan”). The following description of the Omnibus Plan is qualified in its entirety by reference to the Omnibus Plan, which is filed as Exhibit 10.1 to this Current Report on Form 8-K.

In general, the Omnibus Plan will be administered by the Compensation Committee (the “Compensation Committee”) of the Company’s Board of Directors (the “Board”) and will enable the Compensation Committee to provide equity and incentive compensation to (1) the Company’s employees (and those of its subsidiaries), including persons who have agreed to commence serving in such capacity within 90 days of the grant of the applicable award, (2) the Company’s non-employee directors and (3) certain other persons, including certain consultants, who provide employee-type services to the Company or its subsidiaries. Pursuant to the Omnibus Plan, the Company may grant equity-based and cash-based compensation generally in form of stock options, stock appreciation rights, restricted stock, restricted stock units, deferred stock units, performance shares, performance cash awards, dividend equivalents and other stock or cash awards upon terms and conditions as further described in the Omnibus Plan.

Subject to adjustment as provided in the Omnibus Plan, and subject to the Omnibus Plan’s share counting rules, as of the effective date of the Omnibus Plan, a total of 11,000,000 shares of common stock of the Company are reserved for awards granted under the Omnibus Plan, plus the number of shares of common stock of the Company available for grant under the predecessor Hanesbrands Inc. Omnibus Incentive Plan (the “Prior Plan”) that have not yet been made subject to awards under the Prior Plan as of the effective date of the Omnibus Plan. These shares may be either authorized and unissued shares or issued shares reacquired by the Company. The aggregate number of shares of common stock available under the Omnibus Plan will generally be reduced by one share of common stock for every one share subject to an award granted under the Omnibus Plan. Shares underlying certain awards under the Omnibus Plan and the Prior Plan that expire or are terminated, cancelled, forfeited, cash-settled or unearned will again be available under the Omnibus Plan, as further described in the Omnibus Plan.

The Omnibus Plan also provides that: (1) subject to adjustment as described in the Omnibus Plan, the aggregate number of shares of common stock actually issued or transferred upon the exercise of incentive stock options will not exceed 11,000,000 shares; and (2) no non-employee director of the Company in any one calendar year will be granted compensation for such service having an aggregate maximum value (measured at the date of grant as applicable, and calculating the value of any awards under the Omnibus Plan based on the grant date fair value for financial reporting purposes) in excess of \$1,000,000.

The Omnibus Plan provides that awards granted under the Omnibus Plan will vest no earlier than after a minimum one-year vesting period or one-year performance period, as applicable, except that an aggregate of up to 5% of the common stock available for awards under the Omnibus Plan (as may be adjusted under the adjustment provisions of the Omnibus Plan), may be used for awards under the Omnibus Plan that do not at grant comply with such minimum vesting requirement. However, notwithstanding the minimum vesting requirement, the Compensation Committee is permitted to (1) provide for continued vesting or accelerated vesting for any award under the Omnibus Plan upon certain events, including in connection with or following a participant’s death, disability, or termination of service or a change in control, and (2) exercise its discretionary vesting authority under the Omnibus Plan (as described in the Omnibus Plan) at any time following the grant of an award.

The Omnibus Plan permits the Compensation Committee to make certain performance-based awards to participants under the Omnibus Plan. The performance criteria with respect to such performance-based awards may be based on factors including, but not limited to, any of the following (or an equivalent metric): revenue; revenue growth; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings per share; operating income; pre- or after-tax income; net operating profit after taxes; economic value added; ratio of operating earnings to capital spending; cash flow (before or after dividends); cash flow per share (before or after dividends); net earnings; net sales; sales growth; share price performance; return on assets or net assets; return on equity; return on capital (including return on total capital or return on invested capital); cash flow return on investment; total shareholder return; improvement in or attainment of expense levels; improvement in or attainment of working capital levels, gross profit margin, operating profit margin, net income margin and leverage ratio. Performance criteria that are financial metrics may be determined in accordance with United States Generally Accepted Accounting Principles (“GAAP”) or may be financial metrics based on, or able to be derived from, GAAP, and may be adjusted when established (or at any time thereafter) to include or exclude any items otherwise includable or excludable under GAAP.

The Board generally will be able to amend the Omnibus Plan, subject to stockholder approval in certain circumstances as described in the Omnibus Plan.

**Item 5.07 Submission of Matters to a Vote of Security Holders.**

As noted above, the Company held the Annual Meeting on April 28, 2020. A total of 314,028,929 shares of the Company's common stock (approximately 88% of all shares entitled to vote at the Annual Meeting) were represented at the Annual Meeting. Set forth below are the final voting results for each of the proposals submitted to a vote of the stockholders.

**Election of Directors**

The stockholders of the Company elected each of the director nominees proposed by the Company's Board of Directors. The voting results were as follows:

<u>Name of Nominee</u>	<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-votes</u>
Geralyn R. Breig	257,038,722	4,700,082	809,614	51,480,511
Gerald W. Evans, Jr.	258,362,015	3,329,706	856,697	51,480,511
Bobby J. Griffin	222,601,915	39,115,793	830,710	51,480,511
James C. Johnson	229,352,778	32,380,895	814,745	51,480,511
Franck J. Moison	258,053,259	3,672,265	822,894	51,480,511
Robert F. Moran	258,028,581	3,704,371	815,466	51,480,511
Ronald L. Nelson	233,617,016	28,121,929	809,473	51,480,511
Ann E. Ziegler	237,986,449	23,849,153	712,816	51,480,511

**Ratification of Appointment of Independent Registered Public Accounting Firm**

The stockholders of the Company ratified the appointment of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the Company's 2020 fiscal year. The voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-votes</u>
309,460,612	3,517,633	1,050,684	—

**Non-Binding, Advisory Vote Regarding Executive Compensation**

The stockholders of the Company approved, on an advisory basis, executive compensation as disclosed in the Proxy Statement for the Annual Meeting. The voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-votes</u>
237,812,996	23,252,331	1,483,091	51,480,511

**Approval of Hanesbrands Inc. 2020 Omnibus Incentive Plan**

The stockholders of the Company approved the Hanesbrands Inc. 2020 Omnibus Incentive Plan. The voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-votes</u>
253,715,283	7,422,196	1,410,939	51,480,511

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

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	<a href="#">Hanesbrands Inc. 2020 Omnibus Incentive Plan</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

**SIGNATURES**

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

Date: April 29, 2020

**HANESBRANDS INC.**

By: /s/ Joia M. Johnson

Name: Joia M. Johnson

Title: Chief Administrative Officer, General Counsel and Corporate Secretary

## HANESBRANDS INC. 2020 OMNIBUS INCENTIVE PLAN

1. **Purpose.** The purposes of the *Plan* are (a) to promote the interests of the *Company* and its *Subsidiaries* and its stockholders by strengthening the ability of the *Company* and its *Subsidiaries* to attract and retain highly competent officers and other key employees, and (b) to provide a means to encourage *Stock* ownership and proprietary interest in the *Company*.
2. **Definitions.** Where the context of the *Plan* permits, words in the masculine gender shall include the feminine gender, the plural form of a word shall include the singular form, and the singular form of a word shall include the plural form. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:
  - (a) *Award* means the grant of compensation under this *Plan* to a *Participant*.
  - (b) *Board* means the board of directors of the *Company*.
  - (c) *Cause* means, except as may be otherwise prescribed by the *Committee* in an *Evidence of Award* made under this *Plan*, the *Participant*: has been convicted of (or pled guilty or no contest to) a felony or any crime involving fraud, embezzlement, theft, misrepresentation or financial impropriety; willfully engaged in misconduct resulting in material harm to the *Company*; willfully failed to perform duties after written notice; or is in willful violation of *Company* policies resulting in material harm to the *Company*.
  - (d) *Change in Control* means, except as may be otherwise prescribed by the *Committee* in an *Evidence of Award* made under this *Plan*, the occurrence of any of the following events after the *Effective Date*:
    - (i) the acquisition by any *Person* of beneficial ownership (as defined in Rule 13d-3 promulgated under the *Exchange Act*), directly or indirectly, of 20% or more of the combined voting power of the then outstanding capital stock of the *Company* that by its terms may be voted on all matters submitted to stockholders of the *Company* generally (“*Voting Stock*”); provided, however, that the following acquisitions shall not constitute a *Change in Control*: (A) any acquisition directly from the *Company* (excluding any acquisition resulting from the exercise of a conversion or exchange privilege in respect of outstanding convertible or exchangeable securities unless such outstanding convertible or exchangeable securities were acquired directly from the *Company*); (B) any acquisition by the *Company*; (C) any acquisition by an employee benefit plan (or related trust) sponsored or maintained by the *Company* or any corporation controlled by the *Company*; or (D) any acquisition by any corporation pursuant to a reorganization, merger or consolidation involving the *Company*, if, immediately after such reorganization, merger or consolidation, each of the conditions described in clauses (A), (B) and (C)

of subsection (ii) below shall be satisfied; and provided further that, for purposes of clause (B) above, if (1) any *Person* (other than the *Company* or any employee benefit plan (or related trust) sponsored or maintained by the *Company* or any corporation controlled by the *Company*) shall become the beneficial owner of 20% or more of the *Voting Stock* by reason of an acquisition of *Voting Stock* by the *Company*, and (2) such *Person* shall, after such acquisition by the *Company*, become the beneficial owner of any additional shares of the *Voting Stock* and such beneficial ownership is publicly announced, then such additional beneficial ownership shall constitute a *Change in Control*; or

- (ii) the consummation of a reorganization, merger or consolidation of the *Company*, or a sale, lease, exchange or other transfer of all or substantially all of the assets of the *Company*; excluding, however, any such reorganization, merger, consolidation, sale, lease, exchange or other transfer with respect to which, immediately after consummation of such transaction: (A) all or substantially all of the beneficial owners of the *Voting Stock* of the *Company* outstanding immediately prior to such transaction continue to beneficially own, directly or indirectly (either by remaining outstanding or by being converted into voting securities of the entity resulting from such transaction), more than 50% of the combined voting power of the voting securities of the *Resulting Entity* outstanding immediately after such transaction, in substantially the same proportions relative to each other as their ownership immediately prior to such transaction; and (B) no *Person* (other than any *Person* that beneficially owned, immediately prior to such reorganization, merger, consolidation, sale or other disposition, directly or indirectly, *Voting Stock* representing 20% or more of the combined voting power of the *Company*'s then outstanding securities) beneficially owns, directly or indirectly, 20% or more of the combined voting power of the then outstanding securities of the *Resulting Entity*; and (C) at least a majority of the members of the board of directors of the entity resulting from such transaction were *Initial Directors* of the *Company* at the time of the execution of the initial agreement or action of the *Board* authorizing such reorganization, merger, consolidation, sale or other disposition; or
  - (iii) the consummation of a plan of complete liquidation or dissolution of the *Company*; or
  - (iv) the *Initial Directors* cease for any reason to constitute at least a majority of the *Board*.
- (e) *Code* means the Internal Revenue Code of 1986 as amended.
  - (f) *Committee* means the Compensation Committee of the *Board* (or its successor(s)).

- (g) *Company* means Hanesbrands Inc., a Maryland corporation, or any successor thereto.
- (h) *Deferred Stock Unit* (“DSU”) means a vested unit granted pursuant to section 11 below providing a *Participant* with the right to receive *Stock* (or cash) in accordance with the terms of such grant.
- (i) *Director* means a member of the *Board*.
- (j) *Effective Date* means the date this *Plan* is approved by the *Company*’s stockholders.
- (k) *Evidence of Award* means an agreement, certificate, resolution or other type or form of writing or other evidence approved by the *Committee* that sets forth the terms and conditions of the *Awards* granted under this *Plan*. An *Evidence of Award* may be in an electronic medium, may be limited to notation on the books and records of the *Company* and, unless otherwise determined by the *Committee*, need not be signed by a representative of the *Company* or a *Participant*.
- (l) *Exchange Act* means the Securities Exchange Act of 1934, as amended.
- (m) *Fair Market Value* means, as of any particular date, the closing price of a share of *Stock* as reported for that date on the New York Stock Exchange or, if the *Stock* is not then listed on the New York Stock Exchange, on any other national securities exchange on which the *Stock* is listed, or if there are no sales on such date, on the next preceding trading day during which a sale occurred. If there is no regular public trading market for the *Stock*, then the *Fair Market Value* shall be the fair market value as determined in good faith by the *Committee*. The *Committee* is authorized to adopt another fair market value pricing method provided such method is stated in the applicable *Evidence of Award* and is in compliance with the fair market value pricing rules set forth in *Code* Section 409A.
- (n) *Incentive Stock Option* means a *Stock Option* that is intended to meet the requirements of *Code* Section 422 or any successor law.
- (o) *Initial Directors* means those *Directors* of the *Company* on the *Effective Date*; provided, however, that any individual who becomes a *Director* of the *Company* thereafter whose election or nomination for election by the *Company*’s stockholders, was approved by the vote of at least a majority of the *Initial Directors* then comprising the *Board* (or by the nominating committee of the *Board*, if such committee is comprised of *Initial Directors* and has such authority) shall be deemed to have been an *Initial Director*; and provided further, that no individual shall be deemed to be an *Initial Director* if such individual initially was elected or nominated as a *Director* of the *Company* as a result of: (i) an actual or threatened solicitation by a *Person* (other than the *Board*) made for the purpose of opposing a solicitation by the *Board* with respect to the election or removal of *Directors*; or (ii) any other actual or threatened solicitation of proxies or consents by or on behalf of any *Person* (other than the *Board*).



- (p) *Nonqualified Stock Option* means a *Stock Option* that is not an *Incentive Stock Option*.
- (q) *Participant* means (i) an employee of the *Company* or its *Subsidiaries*, including a *Person* who has agreed to commence serving in such capacity within 90 days of the grant date of the *Award*, (ii) a non-employee *Director* of the *Company* or (iii) a *Person*, including a consultant, who provides services to the *Company* or any *Subsidiary* that are equivalent to those typically provided by an employee (provided that such person satisfies the Form S-8 definition of an “employee”), in each case, designated by the *Committee* as eligible to receive an *Award* under the *Plan*.
- (r) *Performance Cash Awards* means cash incentives subject to the satisfaction of *Performance Criteria* and granted pursuant to section 13 below.
- (s) *Performance Criteria* means the measureable performance objective or objectives that may be established pursuant to this *Plan* for *Participants* who have received *Awards* hereunder, which may be based on factors including, but not limited to any of the following (or an equivalent metric): revenue; revenue growth; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings per share; operating income; pre- or after-tax income; net operating profit after taxes; economic value added; ratio of operating earnings to capital spending; cash flow (before or after dividends); cash flow per share (before or after dividends); net earnings; net sales; sales growth; share price performance; return on assets or net assets; return on equity; return on capital (including return on total capital or return on invested capital); cash flow return on investment; total shareholder return; improvement in or attainment of expense levels; improvement in or attainment of working capital levels, gross profit margin, operating profit margin, net income margin and leverage ratio. *Performance Criteria* that are financial metrics may be determined in accordance with United States Generally Accepted Accounting Principles (“GAAP”) or may be financial metrics based on, or able to be derived from, GAAP, and may be adjusted when established (or at any time thereafter) to include or exclude any items otherwise includable or excludable under GAAP.
- If the *Committee* determines that a change in the business, operations, corporate structure or capital structure of the *Company*, or the manner in which it conducts its business, or other events or circumstances render the *Performance Criteria* unsuitable, the *Committee* may in its discretion modify such *Performance Criteria* or the goals or actual levels of achievement regarding the *Performance Criteria*, in whole or in part, as the *Committee* deems appropriate and equitable.
- (t) *Performance Period* means, in respect of an *Award*, a period of time within which the *Performance Criteria* relating to such *Award* are to be achieved.
- (u) *Performance Shares* means *Stock-denominated Awards* subject to satisfaction of *Performance Criteria* and granted pursuant to section 12 below.

- (v) *Person* means any individual, entity or group, including any “person” within the meaning of Section 13(d)(3) or 14(d)(2) of the *Exchange Act*.
- (w) *Plan* means this Hanesbrands Inc. 2020 Omnibus Incentive Plan, as may be amended or amended and restated from time to time.
- (x) *Predecessor Plan* means the Hanesbrands Inc. Omnibus Incentive Plan, including as amended or amended and restated.
- (y) *Restricted Stock* means *Stock* subject to a vesting condition specified by the *Committee* in an *Award* in accordance with section 10 below.
- (z) *Resulting Entity* means the entity resulting from a transaction (including, without limitation, the *Company* or an entity which as a result of such transaction owns the *Company* or all or substantially all of the *Company*’s property or assets, directly or indirectly).
- (aa) *RSU* means a restricted stock unit providing a *Participant* with the right to receive *Stock* (or cash) at a date on or after vesting in accordance with the terms of such grant and/or upon the attainment of *Performance Criteria* specified by the *Committee* in the *Award* in accordance with section 10 below.
- (bb) *SAR* means a stock appreciation right granted pursuant to section 8 below.
- (cc) *Stock* means the common stock, par value \$0.01 per share, of the *Company*, or any security into which such *Stock* may be changed by reason of any transaction or event of the type referred to in section 16 of this *Plan*.
- (dd) *Stock Option* means the right to acquire shares of *Stock* at a certain price that is granted pursuant to section 7 below. The term *Stock Option* includes both *Incentive Stock Options* and *Nonqualified Stock Options*.
- (ee) *Subsidiary* or *Subsidiaries* means a corporation, company or other entity (i) more than 50% of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority) are, or (ii) which does not have outstanding shares or securities (as may be the case in a partnership, joint venture, limited liability company, unincorporated association or other similar entity), but more than 50% of whose ownership interest representing the right generally to make decisions for such other entity is, now or hereafter, owned or controlled, directly or indirectly, by the *Company*; provided, however, that for purposes of determining whether any person may be a *Participant* for purposes of any grant of *Incentive Stock Options*, *Subsidiary* means any corporation in which the *Company* at the time owns or controls, directly or indirectly, more than 50% of the total combined voting power of the then-outstanding securities entitled to vote generally in the election of members of the board of directors or similar body represented by all classes of stock issued by such corporation.

3. **Administration.** The *Plan* will be administered by the *Committee*. The *Committee* shall have the discretionary authority to construe and interpret the *Plan* and any *Awards* granted thereunder (and related documents), to establish and amend rules for *Plan* administration, to change the terms and conditions of *Awards* at or after grant (subject to the provisions of section 22 below), to correct any defect or supply any omission or reconcile any inconsistency in the *Plan* or in any *Award* granted under the *Plan* and to make all other determinations which it deems necessary or advisable for the administration of the *Plan*, and any determination by the *Committee* pursuant to any provision of this *Plan* or of any related agreement, notification or document will be final and conclusive. No member of the *Committee* shall be liable for any such action or determination made in good faith. In addition, the *Committee* is authorized to take any action it determines in its sole discretion to be appropriate subject only to the express limitations contained in this *Plan*, and no authorization in any *Plan* section or other provision of this *Plan* is intended or may be deemed to constitute a limitation on the authority of the *Committee*.

*Awards* under the *Plan* may be made subject to the satisfaction of one or more *Performance Criteria*.

The *Committee* may from time to time delegate all or any part of its authority under this *Plan* to a subcommittee thereof. In addition, to the extent permitted by law, the *Committee* may delegate to one or more of its members, to one or more officers of the *Company*, or to one or more agents or advisors, such administrative duties or powers as it may deem advisable (including but not limited to duties to determine a *Participant's* eligibility for benefits and powers to establish rules, procedures and requirements necessary or appropriate to carry out the terms of the *Plan*), and the *Committee*, the subcommittee, or any person to whom duties or powers have been delegated as aforesaid, may employ one or more persons to render advice with respect to any responsibility the *Committee*, the subcommittee or such person may have under this *Plan*. To the extent of any delegation under this paragraph, references in this *Plan* to the *Committee* will be deemed to be references to such subcommittee.

To the extent permitted by law, the *Committee* or the *Board* may authorize one or more officers of the *Company* to select employees to participate in the *Plan* and to determine the number and type of *Awards* to be granted to such *Participants*, except with respect to *Awards* to officers subject to Section 16 of the *Exchange Act* or to non-employee *Directors* of the *Company*. In the event of such authorization, any reference in the *Plan* to the *Committee* shall be deemed to include such officer or officers, unless the context clearly indicates otherwise.

The determinations of the *Committee* shall be made in accordance with their judgment as to the best interests of the *Company* and its stockholders and in accordance with the purposes of the *Plan*. Any determination of the *Committee* under the *Plan* may be made without notice or meeting of the *Committee*, if in writing signed by all the *Committee* members.

4. **Participants.** The *Committee* shall determine which eligible individuals shall be *Participants* in the *Plan*. Any individual who is located in a country in which the *Company's* *Stock* or the *Plan* have not been registered where registration is required shall be excluded from participation in the *Plan*. Designation of a *Participant* in any year shall not require the *Committee* to designate that person to receive an *Award* in any other year or to receive the same type or amount of *Award* as granted to the *Participant* in any other year or as granted to any other *Participant* in any year. The *Committee* shall consider all factors that it deems relevant in selecting *Participants* and in determining the type and amount of their respective *Awards*.
5. **Shares Available under the Plan.**

- (a) Subject to adjustment as provided in section 16, there is hereby reserved for *Awards* under the *Plan*, as of the *Effective Date*, (i) 11,000,000 shares of *Stock*, plus (ii) the number of shares of *Stock* available for grant pursuant to the *Predecessor Plan* but which have not yet been made subject to awards granted under the *Predecessor Plan* as of the *Effective Date* (the "*Maximum Share Limitation*"). Subject to the share counting rules set forth below, the *Maximum Share Limitation* will be reduced by one share of *Stock* for every one share of *Stock* subject to an *Award* granted under the *Plan*. If, on or after the *Effective Date*, an *Award* under this *Plan* or the *Predecessor Plan* (in whole or in part) expires or is terminated, cancelled, forfeited, settled in cash or unearned, the shares of *Stock* associated with the expired, terminated, cancelled, forfeited, cash-settled or unearned portion of the *Award* shall again be available for *Awards* under this *Plan*. Notwithstanding anything in this *Plan* to the contrary, the following shares of *Stock* shall not be added (or added back, as applicable) to the aggregate number of shares available under this section 5(a): (i) shares withheld by the *Company*, tendered or otherwise used in payment of the exercise price of a *Stock Option*; (ii) shares withheld by the *Company*, tendered or otherwise used to satisfy tax withholding; (iii) shares reacquired by the *Company* on the open market or otherwise using cash proceeds from the exercise of *Stock Options*; and (iv) shares subject to a share-settled *SAR* that are not actually issued in connection with the settlement of such *SAR* on the exercise thereof. All such *Stock* issued under the *Plan* may be either authorized and unissued *Stock* or issued *Stock* reacquired by the *Company*.

Additionally, in the event that a corporation acquired by (or combined with) the *Company* or any *Subsidiary* has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for *Awards* under the *Plan* and shall not reduce the shares of *Stock* authorized for grant under the *Plan*; provided that *Awards* using such available shares shall not be made after the date awards or grants could have been made under the terms of

the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not employees or *Directors* of the *Company* or any *Subsidiary* prior to such acquisition or combination; and provided further, that no shares of *Stock* subject to an award that is granted by, or becomes an obligation of, the *Company* under this paragraph will be added (or added back) to the *Maximum Share Limitation*.

- (b) Notwithstanding anything to the contrary contained in this *Plan*, and subject to adjustment as provided in section 16 of this *Plan*, the aggregate number of shares of *Stock* actually issued or transferred by the *Company* upon the exercise of *Incentive Stock Options* will not exceed 11,000,000 shares; provided, however, notwithstanding a *Stock Option*'s designation, to the extent that *Incentive Stock Options* are exercisable for the first time by the *Participant* during any calendar year with respect to *Stock* whose aggregate *Fair Market Value* exceeds \$100,000, such *Stock Options* shall be treated as *Nonqualified Stock Options*; provided further, that the value of any shares of *Stock* withheld or tendered to pay the exercise price of *Incentive Stock Options* or withheld or tendered to pay taxes on any *Incentive Stock Options* shall be taken into account for purposes of determining the aggregate *Fair Market Value* of *Stock* associated with a *Participant*'s *Incentive Stock Options*.
  - (c) Notwithstanding anything to the contrary contained in this *Plan*, in no event will any non-employee *Director* of the *Company* in any one calendar year be granted compensation for such service having an aggregate maximum value (measured at the date of grant as applicable, and calculating the value of any *Awards* based on the grant date fair value for financial reporting purposes) in excess of \$1,000,000.
6. **Types of Awards, Payments, and Limitations.** *Awards* under the *Plan* shall consist of *Stock Options*, *SARs*, *Restricted Stock*, *RSUs*, *DSUs*, *Performance Shares*, *Performance Cash Awards* and other *Stock* or cash *Awards*, all as described below. Payment of *Awards* may be in the form of cash, *Stock*, other *Awards* or combinations thereof as the *Committee* shall determine, and with the expectation that any *Award* of *Stock* shall be styled to preserve such restrictions as it may impose. The *Committee*, either at the time of grant or by subsequent amendment, and subject to the provisions of sections 22 and 23 hereto, may require or permit *Participants* to elect to defer the issuance of *Stock* or the settlement of *Awards* in cash under such rules and procedures as the *Committee* may establish under the *Plan* in compliance with *Code* Section 409A (to the extent applicable).

The *Committee* may provide that any *Awards* under the *Plan* other than *Stock Options* or *SARs* earn dividends or dividend equivalents and interest on such dividends or dividend equivalents; provided, however, that any such dividends or dividend equivalents (and any interest related thereto) shall be deferred until, and paid contingent upon, the vesting of the related *Award* or portion thereof to which they relate. Any crediting of dividends or dividend equivalents may be subject to such restrictions and conditions as the *Committee* may establish, including reinvestment in additional *Stock* or *Stock* equivalents. For the avoidance of doubt, neither *Stock Options* nor *SARs* granted under this *Plan* may provide for any dividends or dividend equivalents thereon.

Each *Award* shall be evidenced by an *Evidence of Award* that shall be subject to this *Plan* and set forth the terms, conditions and limitations of such *Award*. Such terms may include, but are not limited to, the term of the *Award*, the provisions applicable in the event the *Participant's* employment terminates and the *Company's* authority to unilaterally or bilaterally amend, modify, suspend, cancel or rescind any *Award* including without limitation the ability to amend such *Awards* to comply with changes in applicable law. Unless otherwise determined by the Committee, *Awards* granted under the *Plan* shall be subject to the *Company's* clawback policy as in effect on the *Effective Date*, as the same may be amended from time to time. An *Award* may also be subject to any other clawback policy of the *Company* or other provisions (whether or not applicable to similar *Awards* granted to other *Participants*) as the *Committee* determines appropriate, including provisions intended to comply with federal or state securities laws and stock exchange requirements (including under Section 10D of the Exchange Act), understandings or conditions as to the *Participant's* employment, requirements or inducements for continued ownership of *Stock* after exercise or vesting of *Awards*, or forfeiture or clawback of *Awards* or any shares of *Stock* issued under and/or any other benefit related to an *Award*, in the event of termination of employment shortly after exercise or vesting, breach of noncompetition or confidentiality agreements following termination of employment, or other detrimental activity before or after employment, or other provisions intended to have a similar effect.

Notwithstanding anything in this *Plan* (outside of this paragraph) to the contrary, *Awards* granted under this *Plan* shall vest no earlier than after a minimum one-year vesting period or one-year performance period, as applicable; provided, however, that, notwithstanding the foregoing, an aggregate of up to 5% of the *Stock* available for *Awards* under this *Plan* as provided for in section 5 of this *Plan*, as may be adjusted under section 16 of this *Plan*, may be used for *Awards* that do not at grant comply with such minimum vesting provisions. Nothing in this paragraph or otherwise in this *Plan*, however, shall preclude the *Committee*, in its sole discretion, from (i) providing for continued vesting or accelerated vesting for any *Award* under the *Plan* upon certain events, including in connection with or following a *Participant's* death, disability, or termination of service or a *Change in Control*, or (ii) exercising its authority under section 22(b) at any time following the grant of an *Award*.

7. **Stock Options.** *Stock Options* may be granted to *Participants* at any time as determined by the *Committee*. The *Committee* shall determine the number of shares subject to each *Stock Option* and whether the *Stock Option* is an *Incentive Stock Option*, provided that *Incentive Stock Options* may only be granted to *Participants* who meet the definition of "employees" under Code Section 3401(c). Unless otherwise indicated in the applicable *Evidence of Award*, a *Stock Option* will be deemed to be a *Nonqualified Stock Option*. The exercise price for each *Stock Option* shall be determined by the *Committee* but shall not be less than 100% of the *Fair Market Value* of the *Stock* on the date the *Stock Option* is granted unless the *Stock Option* is a substituted, assumed or converted *Stock Option* granted pursuant to section 17 hereto. Each *Stock Option* shall expire at such time as the

*Committee* shall determine at the time of grant; provided, however, that a *Stock Option* will be automatically exercised upon the expiration date of the *Stock Option* if the *Fair Market Value* of a share of *Stock* on the expiration date exceeds the exercise price for each *Stock Option*. *Stock Options* shall be exercisable at such time and subject to such terms and conditions as the *Committee* shall determine; provided, however, that no *Stock Option* shall be exercisable later than ten years after its date of grant. The exercise price, upon exercise of any *Stock Option*, shall be payable to the *Company* in full by: (a) cash payment or its equivalent (a “cash exercise”); (b) tendering previously acquired *Stock* having a *Fair Market Value* at the time of exercise equal to the exercise price (a “stock swap”) or certification of ownership of such previously-acquired *Stock* (“attestation”); (c) to the extent permitted by applicable law, delivery of a properly executed exercise notice, together with irrevocable instructions to a broker to promptly deliver to the *Company* the amount of sale proceeds from the *Stock Option* shares or loan proceeds to pay the exercise price and to deliver to the *Participant* the net amount of shares (a “cashless exercise for *Stock*”) or cash (a “cashless exercise for cash”); (d) having the *Company* retain from the *Stock* otherwise issuable upon exercise of the *Stock Option* a number of shares of *Stock* having a value (determined pursuant to rules established by the *Committee* in its discretion) equal to the exercise price of the *Stock Option* (a “net exercise”); (e) a combination of the foregoing methods; or (f) such other methods of payment as the *Committee*, in its discretion, deems appropriate.

8. **Stock Appreciation Rights.** *SARs* may be granted to *Participants* at any time as determined by the *Committee*. Notwithstanding any other provision of the *Plan*, the *Committee* may, in its discretion, substitute *SARs* which can be settled only in *Stock* for outstanding *Stock Options* (“*Substitute SARs*”). The grant price of a *Substitute SAR* shall be equal to the exercise price of the related *Stock Option* and the *Substitute SAR* shall have substantive terms (e.g., duration) that are equivalent to the related *Stock Option*. The grant price of any other *SAR* shall not be less than 100% of the *Fair Market Value* of the *Stock* on the date of its grant unless the *SARs* are substitute, assumed or converted *SARs* granted pursuant to section 17 hereto. An *SAR* may be exercised upon such terms and conditions and for the term the *Committee* in its sole discretion determines; provided, however, that the term shall not exceed the *Stock Option* term in the case of a *Substitute SAR* or ten years from the date of grant in the case of any other *SAR*, and the terms and conditions applicable to a *Substitute SAR* shall be substantially the same as those applicable to the *Stock Option* which it replaces. Upon the expiration date of an *SAR*, the *SAR* will be automatically exercised if the *Fair Market Value* of a share of *Stock* on the expiration date exceeds the grant price of the *SAR*. Upon exercise of an *SAR*, the *Participant* shall be entitled to receive payment from the *Company* in an amount determined by multiplying (a) the difference between the *Fair Market Value* of a share of *Stock* on the date of exercise and the grant price of the *SAR* by (b) the number of shares with respect to which the *SAR* is exercised. The payment may be made in cash or *Stock*, at the discretion of the *Committee*, except in the case of a *Substitute SAR* payment which may be made only in *Stock*.
9. **No repricing.** Except in connection with a corporate transaction or event described in section 16 of this *Plan* or in connection with a *Change in Control*, the terms of outstanding *Awards* may not be amended to reduce the exercise price of outstanding

*Stock Options* or the grant price of outstanding *SARs*, or cancel outstanding “underwater” *Stock Options* or *SARs* (including following a *Participant’s* voluntary surrender of “underwater” *Stock Options* or *SARs*) in exchange for cash, other *Awards* or *Stock Options* or *SARs* with an exercise price or grant price, as applicable, that is less than the exercise price of the original *Stock Options* or grant price of the original *SARs*, as applicable, without stockholder approval. This section 9 is intended to prohibit the repricing of “underwater” *Stock Options* and *SARs* and will not be construed to prohibit the adjustments provided for in section 16 of this *Plan*.

10. **Restricted Stock and RSUs.** *Restricted Stock* and *RSUs* may be awarded or sold to *Participants* under such terms and conditions as shall be established by the *Committee*. *Restricted Stock* and *RSUs* shall be subject to such restrictions as the *Committee* determines, including, without limitation, any of the following:
  - (a) a prohibition against sale, assignment, transfer, pledge, hypothecation or other encumbrance for a specified period;
  - (b) a requirement that the holder forfeit (or in the case of *Stock* or *RSUs* sold to the *Participant*, resell to the *Company* at cost) such *Stock* or *RSUs* in the event of termination of employment during the period of restriction; and
  - (c) the attainment of *Performance Criteria*.
11. **DSUs.** *DSUs* provide a *Participant* a vested right to receive *Stock* in lieu of other compensation at termination of employment or service or at a specific future designated date.
12. **Performance Shares.** The *Committee* shall designate the *Participants* to whom *Performance Shares* are to be awarded and determine the number of shares, the length of the *Performance Period* and the other terms and conditions of each such *Award*. Each *Award* of *Performance Shares* shall entitle the *Participant* to a payment in the form of *Stock* (or cash) upon the attainment of *Performance Criteria* and other terms and conditions specified by the *Committee*.

Notwithstanding satisfaction of any *Performance Criteria*, the number of shares issued under a *Performance Share Award* may be adjusted by the *Committee* on the basis of such further consideration as the *Committee* in its sole discretion shall determine. The *Committee* may, in its discretion, make a cash payment equal to the *Fair Market Value* of *Stock* otherwise required to be issued to a *Participant* pursuant to a *Performance Share Award*.
13. **Performance Cash Awards.** The *Committee* shall designate the *Participants* to whom *Performance Cash Awards* are to be awarded and determine the amount of the *Award* and the terms and conditions of each such *Award*. Each *Performance Cash Award* shall entitle the *Participant* to a payment in cash (or an equivalent value in *Stock*, as determined by the *Committee* and set forth in the applicable *Evidence of Award*) on terms and conditions specified by the *Committee*.



Notwithstanding the satisfaction of any *Performance Criteria*, the amount to be paid under a *Performance Cash Award* may be adjusted by the *Committee* on the basis of such further consideration as the *Committee* in its sole discretion shall determine. The *Committee* may, in its discretion, substitute actual *Stock* for the cash payment otherwise required to be made to a *Participant* pursuant to a *Performance Cash Award*.

14. **Other Stock or Cash Awards.** In addition to the awards described in sections 6 through 13 above, the *Committee* may grant shares of *Stock* or such other *Awards* that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, *Stock* or factors that may influence the value of such *Stock*, including, without limitation, convertible or exchangeable debt securities, other rights convertible or exchangeable into *Stock*, purchase rights for *Stock*, awards with value and payment contingent upon performance of the *Company* or specified *Subsidiaries*, affiliates or other business units thereof or any other factors designated by the *Committee*, and *Awards* valued by reference to the book value of the *Stock* or the value of securities of, or the performance of specified *Subsidiaries* or affiliates or other business units of the *Company*. The *Committee* will determine the terms and conditions of such *Awards*. *Stock* delivered pursuant to an *Award* in the nature of a purchase right granted under this section 14 will be purchased for such consideration, and paid for at such time, by such methods, and in such forms, including, without limitation, *Stock*, other *Awards*, notes or other property, as the *Committee* determines.

Cash *Awards*, as an element of or supplement to any other *Award* granted under this *Plan*, may also be granted pursuant to this section 14.

The *Committee* may authorize the grant of *Stock* as a bonus, or may authorize the grant of other *Awards* in lieu of obligations of the *Company* or a *Subsidiary* to pay cash or deliver other property under this *Plan* or under other plans or compensatory arrangements, subject to such terms as will be determined by the *Committee* in a manner that complies with Code Section 409A.

15. **Change in Control.** The vesting and payment terms applicable to an *Award* following a *Change in Control* shall be determined by the *Committee*.
16. **Adjustments.** The *Committee* shall make or provide for such adjustments in the number of and kind of shares of *Stock* covered by outstanding *Stock Options*, *SARs*, *Restricted Stock*, *RSUs*, *DSUs*, and *Performance Shares* granted hereunder and, if applicable, in the number of and kind of shares of *Stock* covered by other *Awards* granted pursuant to section 14 of this *Plan*, in the exercise price and base price provided in outstanding *Stock Options* and *SARs*, respectively, in *Performance Cash Awards*, and in other award terms, as the *Committee*, in its sole discretion, exercised in good faith, determines is equitably required to prevent dilution or enlargement of the rights of *Participants* that otherwise would result from (a) any extraordinary cash dividend, stock dividend, stock split, combination of shares, recapitalization or other change in the capital structure of the *Company*, (b) any merger, consolidation, spin-off, split-off, spin-out, split-up, reorganization, partial or complete liquidation or other distribution of assets, issuance of rights or warrants to purchase securities, or (c) any other corporate transaction or event

having an effect similar to any of the foregoing. Moreover, in the event of any such transaction or event or in the event of a *Change in Control*, the *Committee* may provide in substitution for any or all outstanding *Awards* under this *Plan* such alternative consideration (including cash), if any, as it, in good faith, may determine to be equitable in the circumstances and shall require in connection therewith the surrender of all *Awards* so replaced in a manner that complies with *Code* Section 409A. In addition, for each *Stock Option* or *SAR* with an exercise price or base price, respectively, greater than the consideration offered in connection with any such transaction or event or *Change in Control*, the *Committee* may in its discretion elect to cancel such *Stock Option* or *SAR* without any payment to the person holding such *Stock Option* or *SAR*. The *Committee* shall also make or provide for such adjustments in the number of shares of *Stock* specified in section 5 of this *Plan* as the *Committee* in its sole discretion, exercised in good faith, determines is appropriate to reflect any transaction or event described in this section 16; provided, however, that any such adjustment to the number specified in section 5(b) of this *Plan* will be made only if and to the extent that such adjustment would not cause any *Stock Option* intended to qualify as an *Incentive Stock Option* to fail to so qualify.

17. **Substitution and Assumption of Awards.** The *Board* or the *Committee* may authorize the issuance of *Awards* under this *Plan* in connection with the assumption or conversion of, or substitution for, outstanding awards previously granted to individuals who become employees of the *Company* or any *Subsidiary* as a result of any merger, consolidation, acquisition of property or stock or reorganization, upon such terms and conditions as the *Committee* may deem appropriate. The *Awards* so granted may reflect the original terms of the awards being assumed or substituted or converted for and need not comply with other specific terms of this *Plan*, and may account for *Stock* substituted for the securities covered by the original awards and the number of shares subject to the original awards, as well as any exercise or purchase prices applicable to the original awards, adjusted to account for differences in stock prices in connection with the applicable transaction. Any substitute *Awards* granted under the *Plan* as described in this section 17 shall not count against the *Stock* limitations set forth in section 5 hereto, to the extent permitted by Section 303A.08 of the New York Stock Exchange Listed Company Manual as in effect from time to time.
18. **Nontransferability.** Except as otherwise determined by the *Committee* in the case of *Stock Options*, and subject to compliance with *Code* Section 409A, each *Award* granted under the *Plan* shall not be transferable other than by will or the laws of descent and distribution, and each *Stock Option* and *SAR* shall be exercisable during the *Participant's* lifetime only by the *Participant* or, in the event of disability, by the *Participant's* personal representative. In no event will any such *Award* granted under this *Plan* be transferred for value. In the event of the death of a *Participant*, exercise of any *Award* or payment with respect to any *Award* shall be made only by or to the beneficiary, executor or administrator of the estate of the deceased *Participant* or the *Person* or *Persons* to whom the deceased *Participant's* rights under the *Award* shall pass by will or the laws of descent and distribution.

19. **Taxes.** To the extent that the *Company* is required to withhold federal, state, local or foreign taxes or other amounts in connection with any payment made or benefit realized by a *Participant* or other person under this *Plan*, and the amounts available to the *Company* for such withholding are insufficient, it will be a condition to the receipt of such payment or the realization of such benefit that the *Participant* or such other person make arrangements satisfactory to the *Company* for payment of the balance of such taxes or other amounts required to be withheld, which arrangements (in the discretion of the *Committee*) may include relinquishment of a portion of such benefit. If a *Participant's* benefit is to be received in the form of *Stock*, unless otherwise determined by the *Committee*, such withholding requirement shall be satisfied by retention by the *Company* of a portion of the *Stock* to be delivered to the *Participant*. The *Stock* used for tax or other withholding will be valued at an amount equal to the fair market value of such *Stock* on the date the benefit is to be included in *Participant's* income. In no event will the fair market value of the *Stock* to be withheld and delivered pursuant to this section 19 exceed the minimum amount required to be withheld, unless (i) an additional amount can be withheld and not result in adverse accounting consequences and (ii) such additional withholding amount is authorized by the *Committee*. *Participants* will also make such arrangements as the *Company* may require for the payment of any withholding tax or other obligation that may arise in connection with the disposition of *Stock* acquired upon the exercise of *Stock Options*.

20. **Compliance with Code Section 409A.**

- (a) To the extent applicable, it is intended that this *Plan* and any grants made hereunder comply with the provisions of *Code* Section 409A, so that the income inclusion provisions of *Code* Section 409A(a)(1) do not apply to the *Participants*. This *Plan* and any grants made hereunder will be administered in a manner consistent with this intent. Any reference in this *Plan* to Section 409A of the *Code* will also include any regulations or any other formal guidance promulgated with respect to such section by the U.S. Department of the Treasury or the Internal Revenue Service.
- (b) Neither a *Participant* nor any of a *Participant's* creditors or beneficiaries will have the right to subject any deferred compensation (within the meaning of *Code* Section 409A) payable under this *Plan* and grants hereunder to any anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment. Except as permitted under *Code* Section 409A, any deferred compensation (within the meaning of *Code* Section 409A) payable to a *Participant* or for a *Participant's* benefit under this *Plan* and grants hereunder may not be reduced by, or offset against, any amount owed by a *Participant* to the *Company* or any of its *Subsidiaries*.
- (c) If, at the time of a *Participant's* separation from service (within the meaning of *Code* Section 409A), (i) the *Participant* will be a specified employee (within the meaning of *Code* Section 409A and using the identification methodology selected by the *Company* from time to time) and (ii) the *Company* makes a good faith determination that an amount payable hereunder constitutes deferred

compensation (within the meaning of *Code* Section 409A) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in *Code* Section 409A in order to avoid taxes or penalties under *Code* Section 409A, then the *Company* will not pay such amount on the otherwise scheduled payment date but will instead pay it, without interest, on the tenth business day of the seventh month after such separation from service.

- (d) Solely with respect to any *Award* that constitutes nonqualified deferred compensation subject to *Code* Section 409A and that is payable on account of a *Change in Control* (including any installments or stream of payments that are accelerated on account of a *Change in Control*), a *Change in Control* shall occur only if such event also constitutes a “change in the ownership,” “change in effective control,” and/or a “change in the ownership of a substantial portion of assets” of the *Company* as those terms are defined under Treasury Regulation §1.409A-3(i)(5), but only to the extent necessary to establish a time and form of payment that complies with *Code* Section 409A, without altering the definition of *Change in Control* for any purpose in respect of such *Award*.
  - (e) Notwithstanding any provision of this *Plan* and grants hereunder to the contrary, in light of the uncertainty with respect to the proper application of *Code* Section 409A, the *Company* reserves the right to make amendments to this *Plan* and grants hereunder as the *Company* deems necessary or desirable to avoid the imposition of taxes or penalties under *Code* Section 409A. In any case, a *Participant* will be solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on a *Participant* or for a *Participant*'s account in connection with this *Plan* and grants hereunder (including any taxes and penalties under *Code* Section 409A), and neither the *Company* nor any of its affiliates will have any obligation to indemnify or otherwise hold a *Participant* harmless from any or all of such taxes or penalties.
21. **Duration of the Plan.** No *Award* shall be made under the *Plan* more than ten years after the *Effective Date*, provided that all *Awards* made prior to such date will continue in effect thereafter subject to the terms thereof and of this *Plan*; provided, however, that the terms and conditions applicable to any *Stock Option* granted on or before such date may thereafter be amended or modified by mutual agreement between the *Company* and the *Participant*, or such other *Person* as may then have an interest therein.
22. **Amendment and Termination.**
- (a) The *Board* may amend the *Plan* from time to time or terminate the *Plan* at any time. However, unless expressly provided in an *Award* or the *Plan*, no such action shall materially reduce the amount of any existing *Award* or materially and adversely change the terms and conditions thereof without the *Participant*'s consent; provided, however, that the *Committee* may, in its discretion, substitute SARs which can be settled only in *Stock* for outstanding *Stock Options* and may require an *Award* be deferred pursuant to section 6 hereto, without a *Participant*'s consent; and further provided that the *Committee* may amend or terminate an

*Award* to comply with changes in law, including but not limited to tax law, without a *Participant's* consent. Notwithstanding any provision of the *Plan* to the contrary, the provisions in each of section 9 of the *Plan* (regarding the repricing of *Stock Options* and *SARs*) shall not be amended without stockholder approval. Notwithstanding any provision of the *Plan* to the contrary, to the extent that *Awards* under the *Plan* are subject to the provisions of *Code* Section 409A, then the *Plan* as applied to those amounts shall be interpreted and administered so that it is consistent with such *Code* section. The *Company* shall obtain stockholder approval of any *Plan* amendment to the extent necessary to comply with applicable laws, regulations or stock exchange rules. Termination of the *Plan* will not affect the rights of *Participants* or their successors under any *Awards* outstanding hereunder and not exercised in full on the date of termination.

- (b) If permitted by *Code* Section 409A, but subject to the paragraph that follows, including in the case of termination of employment or service, or in the case of unforeseeable emergency or other circumstances or in the event of a *Change in Control*, to the extent a *Participant* holds a *Stock Option* or *SAR* not immediately exercisable in full, or any *Restricted Stock* as to which the substantial risk of forfeiture or the prohibition or restriction on transfer has not lapsed, or any *RSUs* as to which the vesting period has not been completed, or any *Performance Cash Awards* or *Performance Shares* which have not been fully earned, or any dividend equivalents or other *Awards* made pursuant to section 14 of this *Plan* subject to any vesting schedule or transfer restriction, or who holds *Stock* subject to any transfer restriction imposed pursuant to this *Plan*, the *Committee* may, in its sole discretion, provide for continued vesting or accelerate the time at which such *Stock Option*, *SAR* or other award may vest or be exercised or the time at which such substantial risk of forfeiture or prohibition or restriction on transfer will lapse or the time when such vesting period will end or the time at which such *Performance Cash Awards* or *Performance Shares* will be deemed to have been earned or the time when such transfer restriction will terminate or may waive any other limitation or requirement under any *Award*.

### 23. **Other Provisions.**

- (a) In the event any *Award* under this *Plan* is granted to a *Participant* who is a foreign national or who is employed by the *Company* or any *Subsidiary* outside of the United States of America or who provides services to the *Company* or any *Subsidiary* under an agreement with a foreign nation or agency, the *Committee* may, in its sole discretion: (i) provide for such special terms for *Awards* to such *Participants*, as the *Committee* may consider necessary or appropriate to accommodate differences in local law, tax policy or custom; (ii) approve such supplements to or amendments, restatements or alternative versions of this *Plan* (including sub-plans) as it may consider necessary or appropriate for such purposes, without thereby affecting the terms of this *Plan* as in effect for any other purpose, and the secretary or other appropriate officer of the *Company* may certify any such document as having been approved and adopted in the same manner as this *Plan*; or (iii) cause the *Company* to enter into an internal

accounting transaction with any local branch or affiliate consistent with internal accounting/audit protocols and pursuant to which such branch or affiliate will reimburse the *Company* for the cost of such equity incentives. No such special terms, supplements, amendments or restatements as described in this subsection, however, will include any provisions that are inconsistent with the terms of this *Plan* as then in effect unless this *Plan* could have been amended to eliminate such inconsistency without further approval by the *Company's* stockholders.

- (b) To the extent that any provision of this *Plan* would prevent any *Stock Option* that was intended to qualify as an *Incentive Stock Option* from qualifying as such, that provision will be null and void with respect to such *Stock Option*. Such provision, however, will remain in effect for other *Stock Options* and there will be no further effect on any provision of this *Plan*.
- (c) No *Award* under this *Plan* may be exercised by the holder thereof if such exercise, and the receipt of cash or shares thereunder, would be, in the opinion of counsel selected by the *Company*, contrary to law or the regulations of any duly constituted authority having jurisdiction over this *Plan*.
- (d) No *Participant* will have any rights as a stockholder of the *Company* with respect to any *Stock* subject to *Awards* granted to him or her under this *Plan* prior to the date as of which he or she is actually recorded as the holder of such *Stock* upon the share records of the *Company*.
- (e) Neither the *Plan* nor any *Award* shall confer upon a *Participant* any right with respect to continuing the *Participant's* employment with the *Company*; nor interfere in any way with the *Participant's* right or the *Company's* right to terminate such relationship at any time, with or without cause, to the extent permitted by applicable laws and any enforceable agreement between the employee and the *Company*.
- (f) No fractional shares of *Stock* shall be issued or delivered pursuant to the *Plan* or any *Award*, and the *Committee*, in its discretion, shall determine whether cash, other securities or other property shall be paid or transferred in lieu of any fractional shares of *Stock*, or whether such fractional shares or any rights thereto shall be canceled, terminated or otherwise eliminated.
- (g) In the event any provision of the *Plan* shall be held to be illegal, invalid or unenforceable for any reason, or would disqualify this *Plan* or any *Award* under any law deemed applicable by the *Committee*, such provision will be construed or deemed amended or limited in scope to conform to applicable laws or, in the discretion of the *Committee*, it will be stricken and the remainder of this *Plan* will remain in full force and effect. Notwithstanding anything in this *Plan* or an *Evidence of Award* to the contrary, nothing in this *Plan* or in an *Evidence of Award* prevents a *Participant* from providing, without prior notice to the *Company*, information to governmental authorities regarding possible legal violations or otherwise testifying or participating in any investigation or

proceeding by any governmental authorities regarding possible legal violations, and for purpose of clarity a *Participant* is not prohibited from providing information voluntarily to the Securities and Exchange Commission pursuant to Section 21F of the *Exchange Act*.

- (h) Payments and other benefits received by a *Participant* under an *Award* made pursuant to the *Plan* generally shall not be deemed a part of a *Participant's* compensation for purposes of determining the *Participant's* benefits under any other employee benefit plans or arrangements provided by the *Company* or a *Subsidiary*, unless the *Committee* expressly provides otherwise in writing or unless expressly provided under such plan. The *Committee* shall administer, construe, interpret and exercise discretion under the *Plan* and each *Award* in a manner that is consistent and in compliance with a reasonable, good faith interpretation of all applicable laws.
24. **Governing Law.** The *Plan* and any actions taken in connection herewith shall be governed by and construed in accordance with the laws of the state of North Carolina without regard to any state's conflict of laws principles. Any legal action related to this *Plan* shall be brought only in a federal or state court located in North Carolina.
25. **Stockholder Approval.** This *Plan* will be effective as of the *Effective Date*. No grants will be made on or after the *Effective Date* under the *Predecessor Plan*, provided that outstanding awards granted under the *Predecessor Plan* will continue unaffected following the *Effective Date*. For clarification purposes, the terms and conditions of this *Plan* shall not apply to or otherwise impact previously granted and outstanding awards under the *Predecessor Plan*, as applicable.