

**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): March 03, 2023

CECO ENVIRONMENTAL CORP

(Exact name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

000-7099
(Commission File Number)

13-2566064
(IRS Employer
Identification No.)

14651 North Dallas Parkway
Dallas, Texas
(Address of Principal Executive Offices)

75254
(Zip Code)

Registrant's Telephone Number, Including Area Code: (214) 357-6181

Not applicable
(Former Name or Former Address, if Changed Since Last Report)

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

- 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
Common Stock, par value \$0.01 per share	CECO	The Nasdaq Stock Market LLC

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

Emerging growth company

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

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

On March 3, 2023, the Board of Directors of CECO Environmental Corp. (the “Company”) approved an amendment and restatement of the Company’s Executive Change in Control and Severance Plan (the “Plan”). As previously disclosed, the Plan provides for certain payments and other benefits to participating employees, including the Company’s named executive officers, in the event of certain qualifying terminations of employment.

The amendment and restatement of the Plan adds as a qualifying termination for certain participants, including the named executive officers, a termination for Good Reason (as defined in the Plan) not in connection with a Change in Control (as defined in the Plan). “Good Reason” is defined in the Plan generally to include certain material diminutions of the participant’s duties, authorities or responsibilities; certain material reductions in the participant’s base salary or incentive opportunity (other than certain generally applicable reductions); certain relocations of the participant’s primary workplace; and certain material breaches of the Plan by the Company. “Change in Control” is defined for purposes of the Plan generally to include any person becoming the beneficial owner of 50% or more of the Company’s outstanding common stock or voting securities; certain changes in the majority of the Company’s Board of Directors that are not approved by a super-majority of the incumbent directors; the consummation of certain mergers or similar transactions or sales of all or substantially all of the Company’s assets; and approval by the Company’s stockholders of a complete liquidation or dissolution.

The amendment and restatement of the Plan increases the cash severance that will be payable on a qualifying termination of employment not in connection with a Change in Control for certain participants, including the named executive officers, from 26 weeks’ base salary to one year’s base salary, plus the participant’s annual bonus, based on (i) “target” performance for the year of termination (for a termination by the participant for Good Reason as defined in the Plan) or (ii) actual performance not to exceed “target” for the year of termination (for a termination by the Company other than for cause, or for disability or death). Other changes effected by the amendment and restatement include replacing Company-paid outplacement services on a qualifying termination in connection with a Change in Control with a cash payment of \$20,000 intended for outplacement, expanding the participant’s obligation to provide assistance after a qualifying termination to include responding to requests for information and assisting with transition matters and giving the Plan precedence over individual agreements except for the CEO.

The foregoing description of the Plan as amended and restated is a summary only and is qualified in its entirety by reference to the full text of the Plan, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

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

On March 3, 2023, the Company’s Board of Directors approved an amendment and restatement of the Company’s Amended and Restated By-laws (as amended and restated, the “By-laws”) to (i) align the By-laws with the Securities and Exchange Commission’s new requirements regarding universal proxies pursuant to Rule 14a-19 promulgated under the Securities Exchange Act of 1934, as amended (Article II, Sections 16 and 17); (ii) update the information requirements, processes and procedures regarding the nomination of directors and the proposal of other business for consideration at meetings of the Company’s stockholders (Article II, Sections 16 and 17); (iii) provide for meetings of the Company’s stockholders by means of remote communication (Article II, Sections 3 and 5, and Article III, Sections 3 and 4); (iv) eliminate the requirement that the list of stockholders be open to examination at meetings of the Company’s stockholders, consistent with a recent amendment to the Delaware General Corporation Law (Article II, Section 7); and (v) incorporate certain other ministerial, clarifying and conforming changes throughout the By-laws.

This description of the By-laws does not purport to be complete and is qualified in its entirety by reference to the full text of the By-laws, which are filed as Exhibit 3.1 to this Current Report on Form 8-K and are incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

3.1	Amended and Restated By-laws, as amended and restated March 3, 2023.
10.1	CECO Environmental Corp. Executive Change in Control and Severance Plan, as amended and restated March 3, 2023.
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.

CECO Environmental Corp.

Date: March 9, 2023

By: /s/ Joycelynn Watkins-Asiyanbi
Joycelynn Watkins-Asiyanbi

SVP, Chief Administrative and Legal Officer and Corporate Secretary

**AMENDED AND RESTATED BY-LAWS OF
CECO ENVIRONMENTAL CORP.**

**ARTICLE I
OFFICES**

CECO Environmental Corp., a Delaware corporation (the "Corporation"), shall continuously maintain in the State of Delaware a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the state.

The registered office of the Corporation required by The General Corporation Law of the State of Delaware (the "Act") to be maintained in the State of Delaware may be, but need not be, identical with the principal place of business of the Corporation, and the address of the registered office may be changed from time to time by the Board of Directors of the Corporation. The Board of Directors of the Corporation (the "Board of Directors") shall also have the power to appoint a new registered agent from time to time, and to terminate the services of an incumbent registered agent.

**ARTICLE II
STOCKHOLDERS**

SECTION 1. Annual Meeting. An annual meeting of the stockholders shall be held on the date fixed, from time to time, by the directors, provided that each successive annual meeting shall be held on a date within thirteen months after the date of the preceding annual meeting, for the purpose of electing directors and for the transaction of such other business as may come before the meeting.

SECTION 2. Special Meetings. Special meetings of all of the stockholders of the Corporation, may be called only by the Board of Directors or by any officer instructed by the Board of Directors to call the meeting. The business transacted at any special meeting of the stockholders shall be limited to the purposes stated in the notice for the meeting transmitted to stockholders.

SECTION 3. Place of Meeting. The Board of Directors may designate any place, either within or without the State of Delaware, or by means of remote communication, as a place of meeting for any annual meeting or for any special meeting called by the Board of Directors. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be at the Corporation's executive offices.

SECTION 4. Notice of Meetings. Written or printed notice stating the place, date, and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days, or in the case of a merger or consolidation not less than twenty (20) days, before the date of the meeting.

SECTION 5. Meeting Of All Stockholders. If all of the stockholders shall meet at any time and place, either within or without the State of Delaware, or by means of remote

communication, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any corporate action may be taken.

SECTION 6. Fixing Of Record Date. For the purpose of determining the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or to receive payment of any dividend, or other distribution or allotment of any rights, or to exercise any rights in respect of any change, conversion or exchange of shares, or for the purpose of any other lawful action, the Board of Directors of the Corporation may fix in advance a record date which shall not be more than sixty (60) days and not less than ten (10) days, before the date of such meeting. If no record date is fixed, the record date for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders shall be the date on which notice of the meeting is mailed, and the record date for the determination of stockholders for any other purpose shall be the date on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting.

SECTION 7. Voting Lists. The officer or agent having charge of the transfer books for shares of the Corporation shall make at least ten (10) days before such meeting, whichever is earlier, a complete list of the stockholders entitled to vote at such meeting, arranged in alphabetical order, showing the address of and the number of shares registered in the name of the stockholder, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal place of business of the Corporation and shall be subject to inspection by any stockholder, and to copying at the stockholder's expense, at any time during usual business hours. The original share ledger or transfer book, or a duplicate thereof kept in this State, shall be prima facie evidence as to who are the stockholders entitled to examine such list or share ledger or transfer book or to vote at any meeting of stockholders.

SECTION 8. Quorum. The holders of a majority of the outstanding shares of the Corporation, present in person or represented by proxy, shall constitute a quorum at any meeting of stockholders; provided that if less than a majority of the outstanding shares are represented at said meeting, the chairman of the Board of Directors or presiding officer may adjourn the meeting at any time without further notice. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting shall be the act of the stockholders, unless the vote of a greater number or voting by classes is required by statute or the Certificate of Incorporation. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting. Withdrawal of stockholders from any meeting shall not cause failure of a duly constituted quorum at the meeting.

SECTION 9. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him by proxy. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

SECTION 10. Voting Of Shares. Unless provided in the certificate of incorporation, each outstanding share, regardless of class, shall be entitled to one vote upon each matter submitted to a vote at a meeting of stockholders.

SECTION 11. Voting of Shares by Certain Stockholders. Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent, or proxy as the by-laws of such corporation may prescribe or, in the absence of such provision, as the Board of Directors of such corporation may determine.

Shares standing in the name of a deceased person, a minor ward or an incompetent person, may be voted by his or her administrator, executor, court appointed guardian, or conservator, either in person or by proxy without a transfer of such shares into the name of such administrator, executor, court appointed guardian, or conservator. Shares standing in the name of a trustee may be voted by him, either in person or by proxy.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his or her name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A stockholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

Any number of stockholders may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period not to exceed ten (10) years, by entering into a written voting trust agreement specifying the terms and conditions of such voting trust, and by transferring their shares to such trustee or trustees for the purpose of the agreement. Any such trust agreement shall not become effective until a counterpart of the agreement is deposited with the Corporation at its registered office. The counterpart of the voting trust agreement so deposited with the Corporation shall be subject to the same right of examination by a stockholder of the Corporation, in person, by agent or attorney, as are the books and records of the Corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person, by agent or attorney, at any reasonable time for any proper purpose.

Shares of its own stock belonging to the Corporation shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding shares at any given time, but shares of its own stock held by it in a fiduciary capacity may be voted and shall be counted in determining the total number of outstanding shares at any given time.

SECTION 12. Inspectors. At any meeting of stockholders, the presiding officer may appoint one or more persons as inspectors for such meeting.

Such inspectors shall ascertain and report the number of shares represented at the meeting, based upon their determination of the validity and effect of proxies; count all votes and report the results; and do such other acts as are proper to conduct the election and voting with impartiality and fairness to all the stockholders.

Each report of an inspector shall be in writing and shall be signed by him or by a majority of them if there be more than one (1) inspector acting at such meeting. If there is more than one (1) inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

SECTION 13. Meeting Leadership. The chairman of the Board of Directors shall preside at all meeting of the stockholders. In the absence or inability to act of the chairman, the chief executive officer, the chief financial officer, an Executive Vice President or a Senior Vice President (in that order) shall preside, and in their absence or inability to act another person designated by one of them shall preside. The chairman of the meeting shall appoint a person who need not be a stockholder to act as secretary of the meeting.

SECTION 14. Order. Meetings of the stockholders need not be governed by any prescribed rules of order. The presiding officer's rulings on procedural matters shall be final. The presiding officer is authorized to impose time limits on the remarks of individual stockholders and may take such steps as such officer may deem necessary or appropriate, in his or her sole discretion, to assure that the business of the meeting is conducted in an orderly manner.

SECTION 15. Notice of Stockholder Proposals.

(a) At an annual meeting of stockholders, only such business may be conducted as has been properly brought before the meeting. To be properly brought before an annual meeting, business (other than the nomination of a person for election as a director, which is governed by Article II, Section 16, and, to the extent applicable, Article II, Section 17, must be (i) brought before the meeting by or at the direction of the Board of Directors or (ii) otherwise properly brought before the meeting by a stockholder who (A) has complied with all applicable requirements of this subsection Article II, Section 15(a) and Article II, Section 17 in relation to such business, (B) was a stockholder of record of the Corporation at the time of giving the notice required by Article II, Section 17(a) and is a stockholder of record of the Corporation at the time of the annual meeting, and (C) is entitled to vote at the annual meeting. For the avoidance of doubt, the foregoing clause (ii) will be the exclusive means for a stockholder to submit business before an annual meeting of stockholders (other than proposals properly made in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "Exchange Act"), and included in the notice of meeting given by or at the direction of the Board of Directors).

(b) To be in proper form, a stockholder's notice to the Corporation must set forth in writing the following information, which must be updated and supplemented, if necessary, so that the information provided or required to be provided will be true and correct on the record date of the annual meeting and as of such date that is ten (10) business days prior to the annual meeting or any adjournment or postponement thereof; which update shall be delivered to the Corporation no later than five (5) business days after the record date for the annual meeting and not later than eight (8) business days prior to the date of the annual meeting.

A. the name and address of such Proposing Person, as they appear on the Corporation's transfer book;

B. the class, series and number of shares of the Corporation directly or indirectly beneficially owned or held of record by such Proposing Person (including any shares of any class or series of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership, whether such right is exercisable immediately or only after the passage of time);

C. a representation (1) that the stockholder giving the notice is a holder of record of stock of the Corporation entitled to vote at the annual meeting and intends to appear at the annual meeting to bring such business before the annual meeting and (2) as to whether any Proposing Person intends to deliver a proxy statement and form of proxy to holders of at least the percentage of shares of the Corporation entitled to vote and required to approve the proposal and, if so, identifying such Proposing Person;

D. a description of any (1) option, warrant, convertible security, stock appreciation right or similar right or interest (including any derivative securities, as defined under Rule 16a-1 under the Exchange Act or other synthetic arrangement having characteristics of a long position), assuming for purposes of these By-Laws presently exercisable, with an exercise or conversion privilege or a settlement or payment mechanism at a price related to any class or series of securities of the Corporation or with a value derived in whole or in part from the value of any class or series of securities of the Corporation, whether or not such instrument or right is subject to settlement in whole or in part in the underlying class or series of securities of the Corporation or otherwise, directly or indirectly held of record or owned beneficially by such Proposing Person and whether or not such Proposing Person may have entered into transactions that hedge or mitigate the economic effects of such security or instrument and (2) each other direct or indirect right or interest that may enable such Proposing Person to profit or share in any profit derived from, or to manage the risk or benefit from, any increase or decrease in the value of the Corporation's securities, in each case regardless of whether (x) such right or interest conveys any voting rights in such security to such Proposing Person, (y) such right or interest is required to be, or is capable of being, settled through delivery of such security or (z) such Proposing Person may have entered into other transactions that hedge the economic effect of any such right or interest (any such right or interest referred to in this clause (D) being a "Derivative Interest");

E. any proxy, contract, agreement, arrangement, understanding or relationship pursuant to which the Proposing Person has a right to vote any shares of the Corporation or which has the effect of increasing or decreasing the voting power of such Proposing Person;

F. any contract, agreement, arrangement, understanding or relationship including any repurchase or similar so called “stock borrowing” agreement or arrangement, the purpose or effect of which is to mitigate loss, reduce economic risk, increase or decrease voting power with respect to any capital stock of the Corporation or which provides any party, directly or indirectly, the opportunity to profit from any decrease in the price or value of the capital stock of the Corporation;

G. any material pending or threatened legal proceeding involving the Corporation, any affiliate of the Corporation or any of their respective directors or officers, to which such Proposing Person or its affiliates is a party;

H. any rights directly or indirectly held of record or beneficially by the Proposing Person to dividends on the shares of the Corporation that are separated or separable from the underlying shares of the Corporation;

I. any equity interests, including any convertible, derivative or short interests, in any principal competitor of the Corporation;

J. any performance-related fees (other than an asset-based fee) to which the Proposing Person or any affiliate or immediate family member of the Proposing Person may be entitled as a result of any increase or decrease in the value of shares of the Corporation or Derivative Interests; and

K. any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required pursuant to Section 14(a) of the Exchange Act to be made in connection with a general solicitation of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting.

2. As to each item of business that the stockholder giving notice proposes to bring before the annual meeting:

A. a description in reasonable detail of the business desired to be brought before the annual meeting and the reasons why such stockholder or any other Proposing Person believes that the taking of the action or actions proposed to be taken would be in the best interests of the Corporation and its stockholders;

B. a description in reasonable detail of any material interest of any Proposing Person in such business and a description in reasonable detail of all agreements, arrangements and understandings among the Proposing Persons or between any Proposing Person and any other person or entity (including their names) in connection with the proposal; and

C. the text of the proposal or business (including the text of any resolutions proposed for consideration).

3. A stockholder is not entitled to have its proposal included in the Corporation's proxy statement and form of proxy solely as a result of such stockholder's compliance with the foregoing provisions of this Article II, Section 15.

4. If a stockholder does not appear at the annual meeting to present its proposal, such proposal will be disregarded (notwithstanding that proxies in respect of such proposal may have been solicited, obtained or delivered).

SECTION 16. Notice of Director Nominations.

(a) Only persons who are nominated in accordance with the procedures set forth in this Article II, Section 16 will be eligible to serve as directors. Nominations of persons for election as directors of the Corporation may be made only (a) by or at the direction of the Board of Directors or (b) by a stockholder who (1) has complied with all applicable requirements of this Article II, Section 16 and Section 17 in relation to such nomination, (2) was a stockholder of record of the Corporation at the time of giving the notice required by Article II, Section 17(a) and is a stockholder of record of the Corporation at the time of the annual meeting and (3) is entitled to vote at the annual meeting. In no event may a stockholder provide notice as to nominations pursuant to this Article II, Section 16 with respect to a greater number of director candidates (as alternates or otherwise) than are subject to election by stockholders at the applicable meeting.

(b) To be in proper form, a stockholder's notice to the Corporation must set forth in writing:

1. As to each Nominating Person (as such term is defined in Article II, Section 17(d), the information set forth in Article II, Section 15(a)(1) (except that for purposes of this Article II, Section 16, the term "Nominating Person" will be substituted for the term "Proposing Person" in all places where it appears in Article II, Section 15(b)(1) and any reference to "business" or "proposal" therein will be deemed to be a reference to the "nomination" contemplated by this Article II, Section 16).

2. As to each person whom the stockholder giving notice proposes to nominate for election as a director:

A. all information with respect to such proposed nominee that would be required to be set forth in a stockholder's notice pursuant to Article II, Section 15(a)(1) if such proposed nominee was a Nominating Person;

B. all information relating to such proposed nominee that would be required to be disclosed in a proxy statement or other filing required pursuant to Section 14(a) under the Exchange Act to be made in connection with a general solicitation of proxies for an election of directors in a contested election (including such proposed nominee's written consent to be named in any proxy statement and accompanying proxy cards as a nominee and to serve as a director if elected);

C. a reasonably detailed description of all direct and indirect compensation and other material monetary agreements, arrangements or understandings during the past three (3) years, any other material relationships,

between or among such Nominating Person and its affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee and his or her affiliates, associates or others acting in concert therewith, on the other hand, including all information that would be required to be disclosed pursuant to Items 403 and 404 under Regulation S-K if the stockholder giving the notice or any other Nominating Person were the “registrant” for purposes of such rule and the proposed nominee were a director or executive officer of such registrant;

D. a completed questionnaire (in the form provided by the Corporation upon written request) with respect to the identity, background and qualification of the proposed nominee and the background of any other person or entity on whose behalf the nomination is being made; and

E. a written representation and agreement (in the form provided by the Corporation upon written request) that the proposed nominee (i) is not and will not become a party to (x) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how the proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the Corporation or (y) any Voting Commitment that could limit or interfere with the proposed nominee’s ability to comply, if elected as a director of the Corporation, with the proposed nominee’s fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein and (iii) if elected as a director of the Corporation, the proposed nominee would be in compliance and will comply, with all applicable publicly disclosed corporate governance, ethics, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation.

The Corporation may require any proposed nominee to furnish, within five (5) business days of any such request, such other information as may be reasonably required by the Corporation to determine the qualifications and eligibility of such proposed nominee to serve as a director of the Corporation or that could be material to a reasonable stockholder’s understanding of the independence, or lack thereof, of such nominee.

3. A stockholder is not entitled to have its proposal included in the Corporation’s proxy statement and form of proxy solely as a result of such stockholder’s compliance with the foregoing provisions of this Article II, Section 16.

4. If a stockholder does not appear at the annual meeting to present its proposal, such proposal will be disregarded (notwithstanding that proxies in respect of such nomination may have been solicited, obtained or delivered).

SECTION 17. Additional Provisions Relating to the Notice of Stockholder Business and Director Nominations.

(a) To be timely, a stockholder's notice required by Article II, Section 15(a) or Section 16(a) must be delivered to or mailed and received by the Corporation at the Corporation's executive offices not less than ninety (90) nor more than one hundred twenty (120) calendar days prior to the first anniversary of the date on which the Corporation held the preceding year's annual meeting of stockholders; provided, however, that if the date of the annual meeting is scheduled for a date more than thirty (30) calendar days prior to or more than thirty (30) calendar days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not later than the close of business on the later of the ninetieth (90th) calendar day prior to such annual meeting and the tenth (10th) calendar day following the day on which public disclosure of the date of such meeting is first made. In no event will a recess or adjournment of an annual meeting (or any announcement of any such recess or adjournment) commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Notwithstanding the foregoing, in the event the number of directors to be elected to the Board of Directors at the annual meeting is increased by the Board of Directors, and there is no public announcement by the Corporation naming the nominees for the additional directors at least one hundred (100) calendar days prior to the first anniversary of the date on which the Corporation held the preceding year's annual meeting of stockholders, a stockholder's notice pursuant to Article II, Section 16 will be considered timely, but only with respect to nominees for the additional directorships, if it is delivered to or mailed and received by the Corporation at the Corporation's executive offices not later than the close of business on the tenth (10th) calendar day following the day on which such public announcement is first made by the Corporation.

(b) A stockholder providing notice of business proposed to be brought before an annual meeting pursuant to Article II, Section 15 or notice of any nomination pursuant to Article II, Section 16 must further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to Article II, Section 15 or Section 16, as applicable, is true and correct as of the record date for notice of the meeting and as of the date that is ten (10) days prior to the meeting or any recess, adjournment or postponement thereof. Any such update and supplement must be delivered to, or mailed and received by, the Corporation at the Corporation's executive offices, as promptly as practicable.

(c) Notwithstanding the foregoing provisions of Article II, Section 16 and this Section 17, unless otherwise required by law, (1) no stockholder giving notice as to nominations pursuant to Article II, Section 16 shall solicit proxies in support of director nominees other than the Corporation's nominees unless such stockholder has complied with Rule 14a-19 under the Exchange Act ("Rule 14a-19") in connection with the solicitation of such proxies, including the provision to the Corporation of notices required hereunder in a timely manner, and (2) if any such stockholder (A) provides notice pursuant to Rule 14a-19(b) and (B) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3), including the provision to the Corporation of notices required thereunder in a timely manner, or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such stockholder has met the requirements of Rule 14a-19(a)(3) in accordance with the following sentence, then the Corporation shall disregard any proxies or votes solicited for such stockholder's nominees. If any stockholder providing notice as to nominations pursuant to Article II, Section 16 and this Section 17 provides notice pursuant

to Rule 14a-19(b), then such stockholder shall (i) promptly notify the Corporation if it subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) and (ii) deliver to the Corporation, no later than seven (7) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3).

(d) The chairman or presiding officer of any annual meeting will, if the facts warrant, determine that a proposal was not made in accordance with the procedures prescribed by Article II, Section 15 and this Section 17 or that a nomination was not made in accordance with the procedures prescribed by Article II, Section 16 and this Section 17, and if he or she should so determine, he or she will so declare to the meeting and the defective proposal or nomination, as applicable, will be disregarded. Notwithstanding anything in these By-Laws to the contrary: (1) no nominations shall be made or business shall be conducted at any annual meeting except in accordance with the procedures set forth in Article II, Section 15, Section 16 and this Section 17 and (2) unless otherwise required by law, if a Proposing Person intending to propose business or a Nominating Person intending to make nominations at an annual meeting or special meeting pursuant to Article II, Section 15, Section 16 and this Section 17, as applicable, does not provide the information required under Article II, Section 15, Section 16 and this Section 17 to the Corporation in accordance with the applicable timing requirements set forth in these By-Laws, or the Proposing Person or Nominating Person (or a qualified representative thereof) does not appear at the meeting to present the proposed business or nominations, such business or nominations shall not be considered, notwithstanding that proxies in respect of such business or nominations may have been received by the Corporation.

(e) For purposes of Article II, Section 15, Section 16 and this Section 17, “public disclosure” means disclosure in a press release reported by the Dow Jones News Service, Bloomberg, Associated Press or comparable national news service or in a document filed or furnished by the Corporation with or to, as applicable, the Securities and Exchange Commission pursuant to Exchange Act or furnished by the Corporation to stockholders. For purposes of Article II, Section 15 and this Section 17, “Proposing Person” means (1) the stockholder providing the notice of business proposed to be brought before an annual meeting, (2) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is given and (3) any Affiliate or Associate (each within the meaning of Rule 12b-2 under the Exchange Act) of such stockholder or beneficial owner. For purposes of Article II, Section 16 and this Section 17, “Nominating Person” means (1) the stockholder providing the notice of the nomination proposed made to be at an annual meeting, (2) the beneficial owner or beneficial owners, if different, on whose behalf the notice of nomination proposed to be made at the annual meeting is given, and (3) any Affiliate or Associate (each within the meaning of Rule 12b-2 under the Exchange Act) of such stockholder or beneficial owner.

SECTION 18. Consent of Absentees. No defect in the noticing of a stockholders’ meeting will affect the validity of any action at the meeting if a quorum was present, and if each stockholder entitled to notice signs a written waiver of notice either before or after the meeting, such waivers, consents, or approvals are filed with the corporate records and made a part of the minutes of the meeting.

SECTION 19. Informal Action by Stockholders. Unless otherwise provided in the Certificate of Incorporation, any action required to be taken at any annual or special meeting of

the stockholders of the corporation, or any other action which may be taken at a meeting of the stockholders, may be taken without a meeting and without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voting. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

ARTICLE III DIRECTORS

SECTION 20. General Powers. The business and affairs of the Corporation shall be managed by its Board of Directors.

SECTION 21. Number, Tenure and Qualifications. The number of directors of the Corporation shall be at least three (3) and no more than nine (9) as fixed from time to time by a resolution of the Board of Directors. A director shall hold office until the next annual meeting of stockholders and until his or her successor shall have been elected and qualified. Directors need not be residents of Delaware or stockholders of the Corporation. The number of directors may be increased or decreased from time to time by the Board of Directors, but no decrease shall have the effect of shortening the term of any incumbent director.

SECTION 22. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this By-Law, immediately after the annual meeting of stockholders and at such other times and at such places as may be determined from time to time by the Board of Directors. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Delaware, or by means of remote communication, or a hybrid of remote communication and a physical place, for the holding of additional regular meetings without other notice than such resolution.

SECTION 23. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the chairman of the Board of Directors, the chief executive officer, or a majority of the directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place as the place for holding any special meeting of the Board of Directors called by them, including by means of remote communication or a hybrid of remote communication and a physical place.

SECTION 24. Notice. Notice of any special meeting shall be given at least forty-eight hours prior thereto by written notice to each director at his or her business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice is sent by facsimile or e-mail, a confirming copy shall be sent by United States mail, addressed as set forth above, and such notice shall be deemed to be delivered when mailed in the prescribed manner. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special

meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

SECTION 25. Quorum. A majority of the number of directors fixed by these By-Laws shall constitute a quorum for transaction of business at any meeting of the Board of Directors; provided that if less than a majority of such number of directors are present at said meeting, a majority of the directors present may adjourn the meeting at any time without further notice.

SECTION 26. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by statute or by the Certificate of Incorporation.

SECTION 27. Vacancies. Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced. If there are no directors in office, then an election of directors may be held in the manner provided by statute. If, at the time of filling any vacancy or any newly created directorship, the directors then in office shall constitute less than a majority of the whole Board of Directors (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least ten percent of the total number of the shares at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office.

SECTION 28. Resignation and Removal. Any director or member of a committee may resign at any time upon written notice to the Board of Directors, its chairman, or to the chief executive officer or secretary of the Corporation. One or more directors may be removed with or without cause at any time by the affirmative vote of the holders of a majority of the outstanding shares then entitled to vote, provided that, if done at a meeting, the notice of such meeting states the name of the director or directors to be removed.

SECTION 29. Action Without a Meeting. Unless specifically prohibited by the Certificate of Incorporation, any action required to be taken at a meeting of the Board of Directors, or any other action which may be taken at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the directors entitled to vote with respect to the subject matter thereof. Any such consent signed by all the directors shall have the same effect as a unanimous vote, and may be stated as such in any document filed with the Secretary of State or with any other party.

SECTION 30. Compensation. The Board of Directors, by the affirmative vote of a majority of directors then in office, and irrespective of any personal interest of any of its members, shall have authority to establish reasonable compensation of all directors for services to the Corporation as directors, officers, or otherwise. By resolution of the Board of Directors the directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors. No such payment previously mentioned in this section shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefore.

SECTION 31. Presumption of Assent. A director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be conclusively presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting, or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof, or shall forward such dissent by registered mail to the secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

SECTION 32. Meetings by Telephone. The Board of Directors or any committee thereof may conduct meetings through a conference telephone or other communications equipment by means of which each and all persons participating can hear the others, in accordance with the provisions of Section 141(i) of the Act.

SECTION 33. Committees. The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation (except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the Board of Directors as provided in subsection (a) of Section 151 of the Act, fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the Corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the stock or authorize the increase or decrease of the shares of any series), and if the resolution which designates the committee or a supplemental resolution of the Board of Directors shall so provide, such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

SECTION 34. Committee Minutes. Each committee shall keep regular minutes of its meetings and shall file such minutes and all written consents with the Secretary of the Corporation. Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings; a majority of the members shall constitute a quorum unless the committee shall consist of one or two members, in which event one member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by a committee without a meeting if all members thereof consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of such committee.

SECTION 35. Chairman of the Board. The Board of Directors may elect or appoint a chairman of the Board of Directors. The Chairman shall not be considered to be an officer of the Corporation in his or her capacity as such. The chairman of the Board of Directors, when present, shall preside at all meetings of the stockholders and the Board of Directors. The chairman of the Board of Directors shall perform other duties commonly incident to his or her office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The chairman of the Board of Directors shall be ex-officio a member of all committees.

ARTICLE IV OFFICERS

SECTION 36. Number. The officers of the Corporation shall be a chief executive officer, a chief financial officer, a chief accounting officer and a secretary, each of whom shall be elected by the Board of Directors, and such vice-presidents (who may be designated as Vice Presidents, Senior Vice Presidents or Executive Vice Presidents), assistant treasurers, assistant secretaries or other officers (the number thereof to be determined by the Board of Directors) as may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person.

SECTION 37. Election of Officers. The Board of Directors at its first meeting after each annual meeting of stockholders shall choose a chief executive officer, a chief financial officer, one or more vice-presidents and a secretary, as the Board of Directors shall determine. Any number of offices may be held by the same person, unless the Certificate of Incorporation or these By-Laws otherwise provide.

SECTION 38. Other Officers. The Board of Directors may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

SECTION 39. Compensation and Contract Rights. The Board of Directors shall have authority (a) to fix the compensation, whether in the form of salary, bonus, stock options or otherwise, of all officers and employees of the Corporation, either specifically or by formula applicable to particular classes of officers or employees, and (b) to authorize officers of the Corporation to fix the compensation of subordinate employees. The Board of Directors shall have authority to appoint a Compensation Committee and may delegate to such committee any or all of its authority relating to compensation. The appointment of an officer shall not of itself create contract rights.

SECTION 40. Term. The officers of the Corporation shall hold office until their successors are chosen and qualify. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors, or with respect to persons who have the title of vice president, but are not officers of the Corporation, may be filled by the chief executive officer.

SECTION 41. Chief Executive Officer. The chief executive officer shall perform such duties commonly incident to the office of chief executive officer and shall also perform such other duties and have such other powers as may be prescribed by the Board of Directors from time to time. The chief executive officer shall preside at all meetings of the stockholders and at all meetings of the Board of Directors, unless the chairman of the Board of Directors has been appointed and is present.

SECTION 42. Vice Presidents. The vice-presidents shall report to the chief executive officer or such other officer of the Corporation, as the chief executive officer shall determine, and shall assist the chief executive officer and/or such other officer in the discharge of their duties as the chief executive officer and/or such other officer, as appropriate, may direct. The vice president shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors, the chief executive officer or such other officer shall designate from time to time.

The chief executive officer shall be authorized to appoint employees with the title of vice-president without the approval of the Board of Directors. Such appointed vice-presidents shall not be officers of the Corporation and shall not have the powers given to vice-presidents under these By-Laws.

SECTION 43. The Secretary and Assistant Secretary. The secretary shall attend all meetings of the Board of Directors and all meetings of the stockholders and record all the proceedings of the meetings of the Corporation and of the Board of Directors in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He or she shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors, the chairman of the Board of Directors or chief executive officer, under whose supervision he or she shall be. He or she shall have custody of the corporate seal of the Corporation and he or she, or an assistant secretary, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by his or her signature or by the signature of such assistant secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by his or her signature.

The assistant secretary, or if there be more than one, the assistant secretaries in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election) shall, in the absence of the secretary or in the event of his or her inability or refusal to act, perform the duties and exercise the powers of the secretary and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

SECTION 44. Chief Financial Officer. The chief financial officer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors.

The chief financial officer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the

chairman of the Board of Directors, the chief executive officer and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his or her transactions as chief financial officer and of the financial condition of the Corporation.

SECTION 45. Chief Accounting Officer. The chief accounting officer shall perform such duties commonly incident to the office of chief accounting officer and shall also perform such other duties and have such other powers as may be prescribed by the Board of Directors from time to time. The chief accounting officer shall serve as the principal accounting officer of the Corporation.

ARTICLE V CONTRACTS, LOANS, CHECKS AND DEPOSITS

SECTION 46. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

SECTION 47. Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

SECTION 48. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

SECTION 49. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE VI CERTIFICATES FOR SHARES AND THEIR TRANSFER

SECTION 50. Certificates for Shares. Certificates representing shares of the Corporation shall be signed by the chief executive officer or the chief financial officer or by such officer as shall be designated by resolution of the Board of Directors and by the secretary or an assistant secretary, and may be sealed with the seal or a facsimile of the seal of the Corporation, if the Corporation uses a seal. If both the signatures of the officers be by facsimile, the certificate shall be manually signed by or on behalf of a duly authorized transfer agent or clerk. Each certificate representing shares shall be consecutively numbered or otherwise identified, and shall also state the name of the person to whom issued, the number and class of shares (with designation of series, if any), the date of issue, that the Corporation is organized under the laws of the State of Delaware, and the par value of such shares or a statement that the shares are without par value. If the Corporation is authorized and does issue shares of more than one class, or of series within a class, the certificate shall also contain such information or statement as may be required by law.

The name and address of each stockholder, the number and class of shares held and the date on which the certificates for the shares were issued shall be entered on the books of the

Corporation. The person in whose name shares stand on the books of the Corporation shall be deemed the owner thereof for all purposes as regards the Corporation.

SECTION 51. Lost Certificates. If a certificate representing shares has allegedly been lost or destroyed the Board of Directors, the chief executive officer or the chief financial officer may in its discretion, except as may be required by law, direct that a new certificate be issued upon such indemnification and other reasonable requirements as it may impose.

SECTION 52. Transfers of Shares. Transfers of shares of the Corporation shall be recorded on the books of the Corporation and, except in the case of a lost or destroyed certificate, the certificate or certificates representing such shares shall be surrendered for cancellation. A certificate presented for transfer must be duly endorsed and accompanied by proper guaranty of signature and other appropriate assurances that the endorsement is effective.

ARTICLE VII FISCAL YEAR

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

ARTICLE VIII DIVIDENDS

The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and the Certificate of Incorporation.

ARTICLE IX SEAL

The Corporation may in its discretion determine to use a corporate seal. If a corporate seal is used, the corporate seal shall have inscribed thereon the name of the Corporation. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced.

ARTICLE X WAIVER OF NOTICE

Whenever any notice is required to be given under the provisions of these By-Laws or under the provisions of the Certificate of Incorporation or under the provisions of the Act, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at any meeting shall constitute waiver of notice thereof unless the person at the meeting objects to the holding of the meeting because proper notice was not given.

ARTICLE XI RECORDS AND REPORTS

SECTION 53. Inspection of Books and Records. All books and records provided for by statute shall be open to inspection of the stockholders from time to time and to the extent

provided by statute, and of otherwise. Any director may examine such books and records at all reasonable times.

SECTION 54. Closing Stock Transfer Books. The Board of Directors may close the transfer books in its discretion for a period not exceeding sixty (60) days preceding any meeting, annual or special, of the stockholders, or the day appointed for the payment of a dividend.

**ARTICLE XII
FORUM FOR ADJUDICATION OF DISPUTES**

Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the Act or the Corporation's Certificate of Incorporation or these By-Laws (as either may be amended from time to time) or (d) any action asserting a claim governed by the internal affairs doctrine, shall be the Court of Chancery in the State of Delaware (or, if the Court of Chancery does not have subject-matter jurisdiction, another state or federal court within the State of Delaware). If any stockholder files an action within the scope of the preceding sentence in a court other than a court located within the State of Delaware (a "Foreign Action"), such stockholder shall be deemed to have consented to (a) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce the preceding sentence and (b) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XII.

**ARTICLE XIII
AMENDMENTS**

The power to make, alter, amend, or repeal these By-Laws shall be vested in the stockholders or the Board of Directors, unless reserved to the stockholders by the Certificate of Incorporation. These By-Laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the Certificate of Incorporation.

**ARTICLE XIV
CONSTRUCTION OF TERMS**

The use of singular and plural words and terms, and of the male or female gender, in these By-Laws may be construed and applied alternatively in accordance with the facts and circumstances existing at the time of construction and application of such words and terms.

ARTICLE XV
INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS

SECTION 55. Indemnification. The Corporation shall:

(a) Indemnify to the fullest extent permitted by the Act any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director or an officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or, if such person has previously been designated for indemnification by the resolution of the Board of Directors, an officer, employee or agent of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful; and

(b) indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or an officer, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, joint venture, trust or other enterprise, or, if such person has previously been designated for indemnification by the resolution of the Board of Directors, an officer, employee or agent of the Corporation, against expenses (including attorneys' fees) actually and reasonably incurred by each person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper; and

(c) indemnify any director, or, if such person has previously been designated for indemnification by the resolution of the Board of Directors, an officer, employee or agent against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, to the extent that such director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article XV, Section 1(a) and (b), or in defense of any claim, issue or matter therein; and

(d) make any indemnification under Article XV, Section 1(a) and (b) (unless ordered by a court) only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such director, officer, employee or agent has met the applicable standard of conduct set forth in Article XV, Section 1(a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion or (3) by the stockholders of the Corporation; and

(e) pay expenses incurred by a director or an officer in defending a civil or criminal action, suit or proceeding in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such director or officer is not entitled to be indemnified by the Corporation as authorized in this Article XV. Notwithstanding the foregoing, the Corporation shall not be obligated to pay expenses incurred by a director or an officer with respect to any threatened, pending, or completed claim, suit or action, whether civil, criminal, administrative, investigative or otherwise (“Proceedings”) initiated or brought voluntarily by a director or an officer and not by way of defense (other than Proceedings brought to establish or enforce a right to indemnification under the provisions of this Article XV unless a court of competent jurisdiction determines that each of the material assertions made by the director or officer in such proceeding were not made in good faith or were frivolous). The Corporation shall not be obligated to indemnify the director or officer for any amount paid in settlement of a Proceeding covered hereby without the prior written consent of the Corporation to such settlement; and

(f) not deem the indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this Article XV exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such director’s or officer’s official capacity and as to action in another capacity while holding such office; and

(g) have the right, authority and power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article XV; and

(h) deem the provisions of this Article XV to be a contract between the Corporation and each director, or appropriately designated officer, employee or agent who serves in such capacity at any time while this Article XV is in effect, and any repeal or modification of this Article XV shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon such state of facts. The provisions of this Article XV

shall not be deemed to be a contract between the Corporation and any directors, officers, employees or agents of any other corporation (any other such corporation, a “Second Corporation”) which shall merge into or consolidate with the Corporation when the Corporation shall be the surviving or resulting entity, and any such directors, officers, employees or agents of the Second Corporation shall be indemnified to the extent required under the Act only at the discretion of the Board of Directors of the Corporation; and

(i) continue the indemnification and advancement of expenses provided by, or granted pursuant to, this Article XV, unless otherwise provided when authorized or ratified, as to a person who has ceased to be a director, officer, employee or agent of the Corporation and such rights shall inure to the benefit of the heirs, executors and administrators of such a person.

SECTION 56. Elimination of Certain Liability of Directors. No director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (a) for any breach of the director’s duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the Act, as the same exists or hereafter may be amended or (d) for any transaction from which the director derived an improper personal benefit. If the Act is amended to authorize the further elimination or limitation of liability of directors, then the liability of a director of the Corporation, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the Act as amended. Any repeal or modification of this Article XV by the stockholders of the Corporation shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

Last Amended March 3, 2023

EXECUTIVE CHANGE IN CONTROL SEVERANCE PLAN

1. **Scope.** This CECO Environmental Corp. Executive Change in Control Severance Plan (this “*Plan*”) applies to such officers and/or key employees of CECO Environmental Corp. (the “*Company*”) as may be determined by the Compensation Committee (or its successor, the “*Compensation Committee*”) of the Board of Directors of the Company (the “*Board*”) from time to time (“*Participants*”). Except as otherwise determined by the Compensation Committee, Participants in the Plan are generally anticipated to be direct reports to the Company’s Chief Executive Officer. Each Participant will be designated by the Compensation Committee as a Tier 1 Participant or a Tier 2 Participant upon being included as a Participant, and the Company shall communicate such designation to the Participant and memorialize it in the records of the Company. Certain capitalized terms used in this Plan have the meanings ascribed to them in Section 14 of this Plan. This Plan was last amended and restated effective as of March 3, 2023.

2. **Purpose.** The purpose of this Plan is to set forth certain compensation and benefits that are due to a Participant upon the Participant’s termination of employment with the Company as described herein.

3. **Participation**

- (a) Each Participant is an at-will employee whose employment may be terminated by the Participant or the Company at any time for any reason, subject to the notice provisions set forth in Section 4 of this Plan. Upon the termination of employment of a Participant, this Plan shall govern the rights and responsibilities of the Company and the Participant with respect to the matters addressed by this Plan.
- (b) In consideration of a Participant’s participation in this Plan, the Participant will devote substantially all of the Participant’s business time and efforts to the service of the Company, except for (i) usual vacation periods and reasonable periods of illness, (ii) reasonable periods of time devoted to the Participant’s personal financial affairs, and (iii) services as a director or trustee of other corporations or organizations, either for profit or not for profit, that are not in competition with the Company; provided, however, that in no event shall the Participant devote less than 90% of the Participant’s business time and efforts to the service of the Company.

4. **Notice Period.**

(a) Termination Without Cause. While a Participant is employed by the Company, the Company may terminate the Participant’s employment at any time without Cause pursuant to written notice provided to the Participant not less than 45 days in advance of such

termination. Any termination under this **Section 4(a)** will be effective at such time as may be specified in that written notice, subject to the preceding sentence.

(b) **Termination Without Good Reason.** While a Participant is employed by the Company, the Participant may terminate the Participant's employment at any time without Good Reason pursuant to written notice provided to the Company not less than 45 days in advance of such termination. Any termination under this **Section 4(b)** will be effective at such time as the Participant may specify in that written notice, subject to the preceding sentence.

5. **Qualifying Termination in Connection with a Change in Control.** If, within one year after the date on which a Change in Control occurs, the Company terminates the employment of a Participant (other than due to Cause, a Disability Termination, or the Participant's death) or the Participant terminates the Participant's employment for Good Reason, then the Company will pay and provide to the Participant the amounts and benefits specified in this **Section 5** subject to the Participant's compliance with the terms of this Plan (including **Section 9** hereof), except that the Company will not be obligated to pay the lump sum amounts specified in **Section 5 (c), (d), (e), (f) and (g)** (as applicable) unless either (x) the Company is deemed to have waived its right to present and require a Release as provided in **Section 8(b)** or (y) the Participant has timely executed a Release as contemplated by **Section 8(c)**. The amounts and benefits specified in this **Section 5** are as follows:

- (a) A lump sum amount equal to the Participant's Base Salary earned but unpaid as of the Termination Date ("**Base Compensation**"). The Company will pay this amount to the Participant within 30 days following the Termination Date and in accordance with applicable law.
 - (b) A lump sum amount equal to the Participant's annual cash incentive bonus ("**Annual Bonus**") earned for the calendar year immediately preceding the calendar year in which the termination of employment occurs ("**Prior Year Bonus**"), to the extent not already paid. The Company will pay this amount to the Participant on the same date and in the same amount that the Annual Bonus for such year would have been paid if the Participant's employment had not been terminated, but in any event not later than March 15 of the calendar year in which the termination of employment occurs.
 - (c) For a Tier 1 Participant, a lump sum amount equal in value to the Tier 1 Participant's Annual Bonus that would have been earned for the calendar year in which the termination of employment occurs at the "Target" level. Subject to **Section 10**, the Company will pay this amount to the Tier 1 Participant as soon as practicable (but no later than 74 days) following the Termination Date.
 - (d) For a Tier 2 Participant, a lump sum amount equal in value to the Tier 2 Participant's Annual Bonus that would have been earned for the calendar year in which the termination of employment occurs, pro-rated based on the number of days that the Tier 2 Participant is employed by the Company during the applicable performance period, and calculated on the basis of
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actual performance of the applicable performance objectives for the entire performance period (the “*Termination Year Pro-Rated Bonus*”). Subject to **Section 10**, the Company will pay this amount to the Tier 2 Participant on the same date that the Annual Bonus for such year would have been paid if the Tier 2 Participant’s employment had not been terminated, but in any event not later than March 15 of the calendar year following the calendar year in which the termination of employment occurs.

- (e) A lump sum amount equal to the product of the Applicable Severance Multiplier multiplied by the greater of (i) the Participant’s annual Base Salary rate as of the Termination Date or (ii) the Participant’s highest annual Base Salary rate in effect during the six months preceding the Change in Control. Subject to **Section 10**, the Company will pay this amount to the Participant as soon as practicable (but no later than 74 days) following the Termination Date.
- (f) A lump sum amount equal to \$20,000, to enable the Participant to obtain executive-level outplacement services. Subject to **Section 10**, the Company will pay this amount to the Participant as soon as practicable (but no later than 74 days) following the Termination Date.
- (g) If the Participant timely elects continuation coverage under the Company’s health, dental and vision plans pursuant to COBRA, the Company will pay to the insurance carrier for the Participant’s benefit the Company’s subsidy toward the cost of medical coverage for similarly situated active executives enrolled in the same coverage in which he or she was enrolled at the time of the Termination Date for a period not to exceed the product of (i) the Applicable COBRA Multiplier multiplied by (ii) 12 months. To the extent such benefits are self-insured or it is otherwise necessary to avoid penalties for the Participant or the Company, the Company’s payment of such subsidy will be treated as a taxable payment to the Participant.
- (h) The Company will, at a Participant’s request, transfer any life insurance policy regarding the Participant that has no cash surrender value to the Participant, to the extent permitted by the policy and applicable law.

For purposes of this Plan, if the Company terminates the employment of a Participant (other than due to Cause, a Disability Termination, or the Participant’s death) within six months before a Change in Control occurs, and such termination is either at the request of a third party who has indicated an intention or taken steps reasonably calculated to effect a Change in Control, or effected as a condition to consummation of a Change in Control, and the Change in Control actually occurs, then such termination shall be considered to be a qualifying termination in connection with a Change in Control as described in the first sentence of this **Section 5**. In such circumstance (and only in such circumstance), and solely for purposes of this **Section 5** (other than **Section 5(a)**) and the related Release terms and conditions under **Section 8**, the date of the Change in Control shall be deemed to be the Participant’s Termination Date and date of termination of employment, and the Participant’s Annual Bonus and Base Salary as of such date shall be deemed

to be on the same terms and conditions that applied at the time of the Participant's actual termination of employment prior to the Change in Control. No Participant shall receive a duplication of payments or benefits under **Section 5**, **Section 6** and **Section 7** of this Plan.

6. **Qualifying Termination Not in Connection with a Change in Control.** If the employment of a Participant is terminated by the Company (other than due to Cause, Disability Termination or death) or, solely with respect to a Tier 1 Participant, the Tier 1 Participant terminates the Tier 1 Participant's employment for Good Reason, and in either case, **Section 5** does not apply, then the Company will pay and provide to such Participant the amounts and benefits specified in this **Section 6** subject to such Participant's compliance with the terms of this Plan (including **Section 9** hereof), except that the Company will not be obligated to pay the amounts and benefits specified in **Section 6 (c), (d) and (e)** (as applicable) unless either (x) the Company is deemed to have waived its right to present and require a Release as provided in **Section 8(b)** or (y) such Participant has timely executed a Release as contemplated by **Section 8(c)**. The amounts and benefits specified in this **Section 6** are as follows:

- (a) The Participant's Base Compensation. The Company will pay this amount to the Participant within 30 days following the Termination Date and in accordance with applicable law.
- (b) The Participant's Prior Year Bonus, to the extent not already paid. The Company will pay this amount to the Participant on the same date and in the same amount that the Annual Bonus for the calendar year immediately preceding the calendar year in which the termination of employment occurs would have been paid if the Participant's employment had not been terminated, but in any event not later than March 15 of the calendar year in which the termination of employment occurs.
- (c) A lump sum amount equal to the product of the Applicable Severance Multiplier multiplied by the Participant's annual Base Salary rate as of the Termination Date. Subject to **Section 10**, the Company will pay this amount to the Participant as soon as practicable (but no later than 74 days) following the Termination Date.
- (d) For a Tier 1 Participant who terminates employment for Good Reason, a lump sum amount equal in value to the Tier 1 Participant's Annual Bonus that would have been earned for the calendar year in which the termination of employment occurs at the "Target" level. Subject to **Section 10**, the Company will pay this amount to the Tier 1 Participant as soon as practicable (but no later than 74 days) following the Termination Date.

For a Tier 1 Participant who is terminated by the Company (other than due to Cause, Disability Termination or death), a lump sum amount equal in value to the Tier 1 Participant's Annual Bonus that would have been earned for the calendar year in which the termination of employment occurs, and calculated on the basis of actual performance of the applicable performance objectives for the entire performance period; provided that in no event may

such lump sum amount exceed the Tier 1 Participant's "Target" bonus amount for such year. Subject to **Section 10**, the Company will pay this amount to the Tier 1 Participant on the same date that the Annual Bonus for such year would have been paid if the Tier 1 Participant's employment had not been terminated, but in any event not later than March 15 of the calendar year following the calendar year in which the termination of employment occurs.

- (e) A lump sum amount equal to \$20,000, to enable the Participant to obtain executive-level outplacement services. Subject to **Section 10**, the Company will pay this amount to the Participant as soon as practicable (but no later than 74 days) following the Termination Date.
- (f) If the Participant timely elects continuation coverage under the Company's health, dental and vision plans pursuant to COBRA, the Company will pay to the insurance carrier for the Participant's benefit the Company's subsidy toward the cost of medical coverage for similarly situated active executives enrolled in the same coverage in which he or she was enrolled at the time of the Termination Date for a period not to exceed the product of (i) the Applicable COBRA Multiplier multiplied by (ii) 12 months. To the extent such benefits are self-insured or it is otherwise necessary to avoid penalties for the Participant or the Company, the Company's payment of such subsidy will be treated as a taxable payment to the Participant.

Except for the benefits stated in this **Section 6**, such Participant's participation in all benefit plans, programs and arrangements of the Company shall cease as of the Termination Date and otherwise be governed by the terms of the plans, programs or arrangements, if any, governing such benefits. No Participant shall receive a duplication of payments or benefits under **Section 5**, **Section 6** and **Section 7** of this Plan.

7. **Termination for Cause; Voluntary Termination.** If the Company terminates the employment of a Participant with Cause or a Participant voluntarily terminates employment with the Company (other than for Good Reason), the Company shall pay or provide to the Participant his or her (a) Base Compensation, and (b) continuing health, dental and vision insurance through the Termination Date. The Base Compensation shall be payable within 30 days following the Termination Date. Except for the benefits stated in this **Section 7**, the Participant's participation in all benefit plans, programs and arrangements of the Company shall cease as of the Termination Date and otherwise be governed by the terms of the plans, programs or arrangements, if any, governing such benefits. No Participant shall receive a duplication of payments or benefits under **Section 5**, **Section 6** and **Section 7** of this Plan.

8. **Release.** This **Section 8** will apply only upon termination of a Participant's employment by the Company without Cause or by the Participant for Good Reason, as further described in this Plan.

- (a) Presentation of Release by the Company. If this **Section 8** applies, the Company may present to the Participant (or in the case of the Participant's
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death or legal incapacity, to the Participant's personal representative), not later than 21 days after the Termination Date, a release, in a form reasonably acceptable to and provided by the Company (a "**Release**"), of all current and future claims, known or unknown, arising on or before the date on which the Release is to be executed, that the Participant or the Participant's assigns have or may have against the Company or any Subsidiary, and the directors, officers, and affiliates of any of them (which Release will require the Participant to affirm the Participant's obligations as set forth in this Plan), together with a covering message in which the Company advises the Participant (or the Participant's personal representative) that the Release is being presented in accordance with this **Section 8(a)** and that a failure by the Participant (or the Participant's personal representative) to execute and return the Release as contemplated by **Section 8(c)** would relieve the Company of the obligation to make payments otherwise due to the Participant (or to the Participant's personal representative) under one or more portions of **Section 5** or **Section 6**, as the case may be.

- (b) Effect of Failure by the Company to Present Release. If the Company fails to present a Release and covering message to the Participant (or the Participant's personal representative) as contemplated by **Section 8(a)**, the Company will be deemed to have waived the requirement that the Participant (or the Participant's personal representative) execute a Release as a condition to receiving payments under any portion of **Section 5** or **Section 6**, as the case may be.
 - (c) Execution of Release by the Participant or the Participant's Personal Representative. If the Company does present a Release and covering message to the Participant (or the Participant's personal representative) as contemplated by **Section 8(a)**, the Participant (or the Participant's personal representative) will have until 60 days after the Termination Date (i.e., at least 39 days after presentation of the Release to the Participant (or the Participant's personal representative)) within which to deliver an executed copy of the Release to the Company and thereby satisfy the condition to receiving payments under any portion of **Section 5** or **Section 6**, as the case may be, provided that the Participant (or the Participant's personal representative) does not revoke the execution of the Release during any applicable revocation period.
 - (d) Effect of Failure to Execute Release or of Revocation of Release. If the Participant (or the Participant's personal representative) fails to deliver an executed copy of the Release to the Company within 60 days after the Termination Date or revokes the execution of the Release during any applicable revocation period, the Participant (or the Participant's personal representative) will be deemed to have waived the right to receive all payments under **Section 5** or **Section 6**, as the case may be, that were conditioned on the Release.
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9. **Trade Secrets and Confidential Information; Non-Disparagement; Non-Competition and Non-Solicitation.** By participating in this Plan, a Participant acknowledges the Company's reliance on and expectation of the Participant's continued commitment to performance of the Participant's duties and responsibilities while the Participant is employed by the Company and the Participant assumes the obligations set out in this **Section 9** in light of that reliance and expectation on the part of the Company.

(a) Trade Secrets and Confidential Information.

- (i) The Participant agrees that he or she shall protect the Company's and its affiliates' Trade Secrets and Confidential Information and shall not disclose to any Person, or otherwise use or disseminate, except in connection with the performance of his or her duties for the Company, any Trade Secrets or Confidential Information; provided, however, that the Participant may make disclosures required by a valid order or subpoena issued by a court or administrative agency of competent jurisdiction, in which event the Participant will promptly notify the Company or its affiliates in writing of such order or subpoena to provide the Company or its affiliates an opportunity to protect their interests.
 - (ii) The Participant further confirms that during his or her employment with the Company, he or she has not and will not offer, disclose or use on the Participant's own behalf or on behalf of the Company, any information the Participant received prior to employment by the Company which was supplied to the Participant confidentially or which the Participant should reasonably know to be confidential.
 - (iii) The Participant's obligations under this **Section 9(a)** shall apply during his or her employment and after his or her Termination Date, shall continue through any 12-month anniversary of a Change in Control, and shall continue for five years after such Termination Date and/or 12-month anniversary of a Change in Control, and shall survive any expiration or termination of this Plan (provided, however, that, for purposes of clarification, the Participant's obligations under this **Section 9(a)** as to any information or material that is Confidential Information or a Trade Secret, as applicable, shall not be subject to any expiration date).
 - (iv) Nothing in this Plan or any ancillary agreement prohibits a Participant from reporting, without prior notice to the Company, possible violations of law or regulation to any governmental agency or entity, otherwise testifying or participating in any investigation or proceeding by any governmental authorities regarding possible legal violations, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation, and, for the avoidance of doubt, a Participant is not prohibited from providing
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information voluntarily to the Securities and Exchange Commission pursuant to Section 21F of the Securities Exchange Act of 1934, as amended. Each Participant is hereby notified in accordance with the Defend Trade Secrets Act of 2016 that the Participant will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a Trade Secret that: (A) is made (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (2) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. Each Participant is further notified that if the Participant files a lawsuit for retaliation by Company for reporting a suspected violation of law, the Participant may disclose Trade Secrets to the Participant's attorney and use the Trade Secret information in the court proceeding if the Participant: (x) files any document containing the Trade Secret under seal; and (y) does not disclose the Trade Secret, except pursuant to court order. A Participant does not need the prior authorization of Company to make any such reports or disclosures, and a Participant is not required to notify Company that the Participant has made such reports or disclosures.

- (b) Non-Disparagement. Each Participant agrees not to make any communications or engage in any conduct that is or could reasonably be construed to be disparaging of the Company, its affiliates or their respective officers, directors, founders, employees, agents, stockholders, products or services. The Company agrees the provisions of this **Section 9(b)** do not apply to disclosures required in the ordinary course of business communications between a Participant and his or her attorney; communications by a Participant required by law, by court order or court directive; communications by a Participant in the scope of pursuing a complaint or claim with a governmental agency; or communications by a Participant during participation in a governmental agency investigation of claims.
 - (c) Non-Competition and Non-Solicitation.
 - (i) Each Participant acknowledges and agrees that, unless otherwise required by law, both during his or her employment and for six months (12 months in the case of a Tier 1 Participant) after the last day of his or her employment with the Company, he or she has not and will not, directly or indirectly, engage in, provide, or perform any services on behalf of, invest in, own or otherwise finance, consult for, or serve as a partner, manager, director, officer, employee, independent contractor or agent of, any Person providing goods or services substantially similar to those which comprise the
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Company's Business. A Participant's ownership of less than two percent (2%) of the outstanding, publicly traded equity of a competitor of the Company shall not be deemed a breach of this **Section 9(c)(i)**.

- (ii) Each Participant acknowledges and agrees that both during his or her employment and for six months (12 months in the case of a Tier 1 Participant) after the last day of his or her employment with the Company, the Participant has not and will not, directly or indirectly, whether on behalf of the Participant or others, solicit Customers for the purpose of providing goods and/or services competitive with the Company's Business.
 - (iii) Each Participant acknowledges and agrees that both during his or her employment and for six months (12 months in the case of a Tier 1 Participant) after the last day of his or her employment with the Company, the Participant has not and will not, directly or indirectly, whether on behalf of the Participant or others, solicit, lure or attempt to hire away any of the Company's or its affiliates' employees or agents. Notwithstanding the foregoing, this **Section 9(c)(iii)** shall not prevent a Participant from soliciting an employee or agent who has discontinued all business dealings with the Company for at least six continuous months. Notwithstanding the foregoing, a general advertisement to which an employee or agent of the Company responds shall not be deemed a breach of this **Section 9(c)(iii)**.
- (d) **Remedies.** Each Participant acknowledges that the remedy at law for any breach by the Participant of this **Section 9** may be inadequate and that the damages following from any such breach may not be readily susceptible to being measured in monetary terms. Accordingly, the Participant agrees that, upon adequate proof of the Participant's violation of any legally enforceable provision of this **Section 9**, the Company will be entitled to immediate injunctive relief and may obtain a temporary order restraining any threatened or further breach. Nothing in this **Section 9** will be deemed to limit the Company's remedies at law or in equity for any breach by the Participant of any of the provisions of this **Section 9** that may be pursued or availed of by the Company.
- (e) **Acknowledgement.** Each Participant has carefully considered the nature and extent of the restrictions upon the Participant and the rights and remedies conferred upon the Company under this **Section 9**, and hereby acknowledges and agrees that the same are reasonable in time and territory, are designed to eliminate competition that otherwise would be unfair to the Company, do not stifle the inherent skill and experience of the Participant, would not operate as a bar to the Participant's sole means of support, are fully required to protect the legitimate interests of the Company, and do not confer a benefit upon the Company disproportionate to the detriment to the
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Participant. If a Participant is subject to any restrictive covenants under any plan, policy, document or Individual Agreement (collectively, the “***Other Restrictive Covenants***”), the Participant is obligated to abide by both the Other Restrictive Covenants and the restrictive covenants set forth in this Plan, regardless of whether they are similar.

10. **Tax Matters; Section 409A.**

(a) The payments and benefits provided under this Plan will be subject to all applicable federal, state and other governmental withholdings.

(b) To the extent applicable, it is intended that this Plan comply with or be exempt from the provisions of Section 409A, so that the income inclusion provisions of Section 409A(a)(1) of the Code do not apply to a Participant. Consistent with that intent, and to the extent required under Section 409A, for benefits that are to be paid in connection with a termination of employment, “termination of employment” or any similar term shall be limited to such a termination that constitutes a “separation from service” under Section 409A. Notwithstanding any provision of **Section 5**, **Section 6** or **Section 7** to the contrary, if the period commencing on the date of the Participant’s termination of employment begins in one taxable year of the Participant and the 74th day following the date of such termination of employment is in a subsequent taxable year, any amounts payable under **Section 5**, **Section 6** or **Section 7** which are considered deferred compensation subject to Section 409A shall be paid in such subsequent taxable year.

(c) Notwithstanding any provision of this Plan to the contrary, if a Participant is a “specified employee,” determined pursuant to procedures adopted by the Company in compliance with Section 409A, on the date of his or her separation from service (within the meaning of Treasury Regulation section 1.409A-1(h)) and if any portion of the payments or benefits to be received by the Participant upon his or her termination of employment would constitute a “deferral of compensation” subject to Section 409A, then to the extent necessary to comply with Section 409A, amounts that would otherwise be payable pursuant to this Plan during the six-month period immediately following the Participant’s termination of employment will instead be paid or made available on the earlier of (i) the first business day of the seventh month after the Termination Date, or (ii) the Participant’s death. For purposes of application of Section 409A, to the extent applicable, each payment made under this Plan shall be treated as a separate payment and not one of a series of payments for purposes of Section 409A.

(d) Notwithstanding any provision of this Plan to the contrary, to the extent any reimbursement or in-kind benefit provided under this Plan is nonqualified deferred compensation within the meaning of Section 409A: (i) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year; (ii) the reimbursement of an eligible expense must be made on or before the last day of the calendar year following the calendar year in which the expense was incurred; and (iii) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

(e) In no event shall this **Section 10** or any other provisions of this Plan be construed to require the Company to provide any gross-up for the tax consequences under Section

409A of any provisions of, or payments under, this Plan, and the Company shall have no responsibility for tax consequences under Section 409A to a Participant resulting from the terms or operation of this Plan.

11. **Adjustment of Certain Payments and Benefits.** Notwithstanding any provision of this Plan to the contrary, if any payment or benefit to be paid or provided hereunder or under any other plan or agreement would be an “Excess Parachute Payment,” within the meaning of Section 280G of the Code, or any successor provision thereto, but for the application of this sentence, then the payments and benefits to be paid or provided hereunder shall be reduced to the minimum extent necessary (but in no event to less than zero) so that no portion of any such payment or benefit, as so reduced, constitutes an Excess Parachute Payment; provided, however, that the foregoing reduction shall be made only if and to the extent that such reduction would result in an increase in the aggregate payments and benefits to be provided, determined on an after-tax basis (taking into account the excise tax imposed pursuant to Section 4999 of the Code, or any successor provision thereto, any tax imposed by any comparable provision of state law, and any applicable federal, state and local income taxes). The determination of whether any reduction in such payments or benefits to be provided hereunder is required pursuant to the preceding sentence shall be made at the expense of the Company, if requested by the Participant or the Company, by the Company’s independent accountants or a nationally recognized law firm chosen by the Company. The fact that the Participant’s right to payments or benefits may be reduced by reason of the limitations contained in this Section shall not of itself limit or otherwise affect any other rights of the Participant under this Plan. In the event that any payment or benefit intended to be provided hereunder is required to be reduced pursuant to this Section, then the reduction will be made in accordance with Section 409A and will occur in the following order: (a) first, by reducing any cash payments with the last scheduled payment reduced first; (b) second, by reducing any equity-based benefits that are included at full value under Q&A-24(a) of the Treasury Regulations promulgated under Section 280G of the Internal Revenue Code (the “**280G Regulations**”), with the highest value reduced first; (c) third, by reducing any equity-based benefits included on an acceleration value under Q&A-24(b) or 24(c) of the 280G Regulations, with the highest value reduced first; and (d) fourth, by reducing any non-cash, non-equity based benefits, with the latest scheduled benefit reduced first. Such payments or benefits shall be reduced in a manner that maximizes the Participant’s economic position. In applying this principle, the reduction shall be made in a manner consistent with the requirements of Section 409A of the Code, and where two economically equivalent amounts are subject to reduction but payable at different times, such amounts shall be reduced on a pro rata basis but not below zero.

12. **Amendments.** This Plan may be amended or terminated at any time by the Compensation Committee; provided, however, that no such amendment or termination may materially adversely affect any Participant without the Participant’s prior written consent unless the Company provides 12 months’ written notice of such amendment or termination to any adversely affected Participant.

13. **Effective Date/Termination.** The Plan was originally established by the Company effective as of August 11, 2021. The Plan is hereby amended and restated effective as of March 3, 2023 (the “**Effective Date**”), and supersedes all prior understandings, agreements or

representations, written or oral, with respect to the subject matter herein with respect to Participants.

14. **Definitions.** Any capitalized term that is used, but not otherwise defined, in this Plan shall have the meaning set forth in this Section:

(a) “**Applicable COBRA Multiplier**” means the applicable multiplier set forth on **Exhibit A** that applies to a Participant’s Participation Tier in respect of a termination of the Participant’s employment under **Section 5** or **Section 6** of this Plan, as applicable.

(b) “**Applicable Severance Multiplier**” means the applicable multiplier set forth on **Exhibit A** that applies to a Participant’s Participation Tier in respect of a termination of the Participant’s employment under **Section 5** or **Section 6** of this Plan, as applicable.

(c) “**Base Salary**” means the amount a Participant is entitled to receive as base salary from time to time, including any amounts deferred pursuant to any contributions to the Company’s 401(k) Retirement Savings Plan and excluding all annual cash performance awards (or equivalent award for annual performance), bonuses, equity sharing plans, overtime, long-term incentive awards, welfare benefit premium reimbursements and other incentive compensation, payable by the Company as consideration for the Participant’s services.

(d) “**Cause**” means (i) any use or misappropriation by a Participant of the Company’s, or any of Company’s affiliates’, funds, assets or property for any personal or other improper purpose; (ii) any act of moral turpitude, dishonesty, fraud by or felony conviction of a Participant whether or not such acts were committed in connection with the Company’s Business; (iii) any failure by a Participant substantially to perform the lawful instructions of the Person(s) to whom the Participant reports (other than as a result of total or partial incapacity due to Total Disability) following written notice by the Company to the Participant of such failure and 15 days following such notice within which to cure such failure; (iv) any willful or gross misconduct by the Participant in connection with the Participant’s duties to the Company which could reasonably be expected to be materially injurious to the financial condition or business reputation of the Company or its affiliates; (v) any failure by the Participant to follow a material Company policy; or (vi) any material breach by the Participant of a material obligation under this Plan.

(e) “**Change in Control**” means the occurrence (after the Effective Date), during Participant’s participation in this Plan, of any of the following events:

(i) any Person becomes the beneficial owner (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended) of 50% or more of either (A) the then-outstanding Common Stock (the “**Outstanding Company Common Stock**”) or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the “**Outstanding Company Voting Securities**”); provided, however, that, for purposes of this definition, the following acquisitions shall not constitute a Change in Control: (w) any acquisition directly from the Company, (x) any acquisition by

the Company, (y) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company, or (y) any acquisition pursuant to a transaction that complies with **Sections 14(f)(iii)(A), (B) and (C)** below;

- (ii) individuals who, as of the Effective Date, constitute the Board (the “**Incumbent Board**”) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a member of the Board subsequent to the Effective Date whose election, or nomination for election by the stockholders of the Company, was approved by a vote of at least three-fourths (3/4) of the directors then comprising the Incumbent Board (either by specific vote or by approval of the proxy statement of the Company in which such individual is named as a nominee for director, without objection to such nomination) shall be considered as though such individual was a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board;
 - (iii) consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company or any of its Subsidiaries, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or securities of another entity by the Company or any of its Subsidiaries (each, a “**Business Combination**”), in each case unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Stock and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company’s assets either directly or through one or more Subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Stock and the Outstanding Company Voting Securities, as the case may
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be, (B) no Person (excluding any entity resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such entity resulting from such Business Combination) beneficially owns, directly or indirectly, 50% or more of, respectively, the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) of the entity resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such entity, except to the extent that such ownership existed prior to the Business Combination, and (C) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination; or

(iv) approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

(f) “**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985.

(g) “**Code**” means the Internal Revenue Code of 1986, as amended.

(h) “**Common Stock**” means the common stock, par value \$0.01 per share, of the Company.

(i) “**Company’s Business**” means the design, manufacture, sale of, and service related to air and noise pollution control equipment serving the energy and industrial markets and fluid handling and filtration. The Company’s Business is further described in any and all manufacturing, marketing and sales manuals and materials of the Company as the same may be altered, amended, supplemented or otherwise changed from time to time, including any such manuals and materials as in effect at any time during the 12-month period immediately prior to a Participant’s Termination Date, or of any other products or services substantially similar to or readily substitutable for any such described products and services. The Company’s Business shall also include any expansion or acquisition of or by the Company or any plans with respect to expansion or acquisition, as evidenced by the books and records of the Company, at the time of a Participant’s Termination Date.

(j) “**Confidential Information**” means: (i) business opportunities; (ii) data and compilations of data relating to the Company’s Business; (iii) compilations of information about, and communications and agreements with, customers and potential customers of the Company, including customer and pricing lists; (iv) intellectual property, including computer software, hardware, network and internet technology utilized, modified or enhanced by the Company or by a Participant in furtherance of the Participant’s duties with the Company; (v) compilations of data concerning Company products, services, customers, and end users including but not limited to compilations concerning projected sales, new project timelines, inventory reports, sales, and cost

and expense reports; (vi) compilations of information about the Company's executives and independent contracting consultants; (vii) the Company's financial information, including, without limitation, projections, amounts charged to customers and amounts charged to the Company by its vendors, suppliers, and service providers; (viii) proposals submitted to the Company's customers, potential customers, wholesalers, distributors, vendors, suppliers and service providers; (ix) the Company's marketing strategies and compilations of marketing data; (x) compilations of data or information concerning, and communications and agreements with, vendors, suppliers and licensors to the Company and other sources of technology, products, services or components used in the Company's Business; (xi) any information concerning services requested and services performed on behalf of customers of the Company, including planned products or services; (xii) the Company's research and development records and data; and (xiii) personnel data learned in the course of performing a Participant's duties to the Company. Confidential Information also includes any summary, extract or analysis of such information together with information that has been received or disclosed to the Company by any third party as to which the Company has an obligation to treat as confidential. Confidential Information shall not include: (x) information generally available to the public other than as a result of improper disclosure by a Participant; (y) information that becomes available to a Participant from a source other than the Company (provided the Participant has no reason to believe that such information was obtained from a source in breach of a duty to the Company); and/or (z) information disclosed pursuant to law, regulations or pursuant to a subpoena, court order or legal process and not otherwise protected from disclosure by a confidentiality arrangement, a protective order or submission to a court, regulatory agency or other legal tribunal under seal or other customary confidentiality process or practice.

(k) "**Customers**" means mean those Persons who are customers of the Company and/or its affiliates with respect to which, within the one-year period preceding the date of a Participant's Termination Date: (i) the Participant had material contact on behalf of the Company; (ii) the Participant acquired, directly or indirectly, Confidential Information or Trade Secrets as a result of his or her employment with the Company; and/or (iii) the Participant exercised oversight or responsibility of subordinates who engaged in material contact on behalf of the Company.

(l) "**Disability Termination**" means termination of the Participant's employment by the Company when the Participant has been Totally Disabled for an aggregate of 120 days in any consecutive 12 calendar months or for 90 consecutive days.

(m) "**Good Reason**" means, in the absence of prior written consent of a Participant: (i) a material diminution in the Participant's duties, authorities or responsibilities; (ii) a material reduction of the Participant's Base Salary or incentive opportunity under the Company's short-term cash incentive program; provided, however, that any reduction that is part of a reduction applicable to all Company executives who report directly to the Company's Chief Executive Officer shall not be deemed "Good Reason" hereunder; (iii) relocation of the Participant's primary workplace, as assigned to the Participant as of the Effective Date, beyond a 50 mile radius from such workplace; or (iv) any material breach by the Company of this Plan; provided, however, that the Participant's termination of employment shall not be deemed to be for Good Reason unless (x) the Participant has notified the Company in writing describing the occurrence of one or more Good Reason events within 90 days of such occurrence, (y) the Company fails to cure such Good Reason

event within 30 days after its receipt of such written notice and (z) the Participant's Termination Date occurs within 180 days after the occurrence of the applicable Good Reason event.

(n) "**Individual Agreement**" means any offer letter or similar agreement currently in effect as of the Effective Date (other than an equity award agreement) to which the applicable Participant and the Company are parties.

(o) "**Participant's Own Occupation**" means the regular occupation in which a Participant is engaged with the Company at the time the Participant has a Total Disability.

(p) "**Person**" means any individual, entity, or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended).

(q) "**Section 409A**" means Section 409A of the Code. References in this Plan to Section 409A are intended to include any proposed, temporary, or final regulations, or any other guidance, promulgated with respect to Section 409A by the U.S. Department of Treasury or the Internal Revenue Service.

(r) "**Subsidiary**" 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.

(s) "**Termination Date**" means the date on which a Participant's employment with the Company and its Subsidiaries terminates.

(t) "**Territory**" means the United States and any other country worldwide in which the Company has operations or customers. By participating in this Plan, the Participant acknowledges that the services he or she has performed and may continue to perform on behalf of the Company or its affiliates are at a senior managerial level and are not limited in their territorial scope to any particular city, state, country or region, but instead affect the Company's activities globally. Specifically, the Participant acknowledges by participating in this Plan that he or she travels throughout the United States to attend Company meetings, visit Company facilities, meet with Company agents and distributors, and attend trade shows. In addition, the Participant acknowledges by participating in this Plan that he or she conducts and directs business on behalf of the Company in other countries throughout the world in which the Company has operations or customers. Accordingly, the Participant agrees by participating in this Plan that restrictions involving the restrictive covenants in this Plan are reasonable and necessary to protect the Confidential Information, Trade Secrets, business relationships, and goodwill of the Company.

(u) "**Total Disability**" shall have either (i) the meaning ascribed to such term (or substantially similar term) in the Company's long-term disability plan or policy covering the Executive, or (ii) in the absence of such plan or policy, the meaning ascribed to such term (or substantially similar term) in an applicable Individual Agreement, or (iii) in the absence of such

plan or policy and such applicable Individual Agreement, a meaning consistent with Code Section 22(e)(3).

(v) **“Totally Disabled”** means that the Participant suffers from Total Disability (and the Participant will be deemed to continue to be Totally Disabled so long as the Participant is not able to work in the Participant’s Own Occupation even if the Participant works in some other capacity).

(w) **“Trade Secrets”** means any information or thing that constitutes a trade secret under any applicable law, including, without limitation, a formula, pattern, compilation, program, device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

15. **Miscellaneous Provisions.**

(a) **No Set Off; No Obligation to Seek Other Employment or to Otherwise Mitigate Damages; No Effect Upon Other Plans.** The Company’s obligation to make the payments provided for in this Plan and otherwise to perform its obligations under this Plan will not be affected by any set off, counterclaim, recoupment, defense, or other claim whatsoever that the Company or any Subsidiary or affiliate of the Company may have against the Participant, except that the prohibition on set-off, counterclaim, recoupment, defense, or other claim contained in this sentence will not apply if the Participant’s employment is terminated by the Company for Cause. The Participant will not be required to mitigate damages or the amount of any payment provided for under this Plan by seeking other employment or otherwise. The amount of any payment provided for under this Plan will not be reduced by any compensation or benefits earned by the Participant as the result of employment by another employer or otherwise after the Termination Date. Neither the provisions of this Plan nor the making of any payment provided for under this Plan, nor the termination of the Company’s obligations under this Plan, will reduce any amounts otherwise payable, or in any way diminish a Participant’s rights, under any incentive compensation plan, stock option or stock appreciation rights plan, restricted stock plan or agreement, deferred compensation, retirement, or supplemental retirement plan, stock purchase and savings plan, disability or insurance plan, or other similar contract, plan, or arrangement of the Company or any Subsidiary, all of which will be governed by their respective terms.

(b) **Payments Not Compensation.** Any participation by a Participant in, and any terminating distributions and vesting rights (other than previously defined) under, the Company-sponsored retirement or savings plans, regardless of whether such plans are qualified or non-qualified for tax purposes, shall be governed by the terms of those respective plans. Any salary continuation or severance benefits shall not be considered compensation for purposes of accruing additional benefits under such plans.

(c) **Legal Fees.** In the event that a Participant or the Company brings any proceeding or any legal action to enforce the terms of this Plan, each of the Company and the Participant shall bear its own attorneys’ fees and costs in connection with such proceeding or legal action.

(d) Payments Are in Lieu of Severance Payments. If a Participant becomes entitled to receive payments under this Plan as a result of termination of the Participant's employment, those payments will be in lieu of any and all other claims or rights that the Participant may have against the Company for severance, separation, and/or salary continuation pay upon termination of the Participant's employment.

(e) Assistance. During a Participant's employment with the Company and thereafter, the Participant will respond to reasonable requests for information regarding matters that may arise in the Company's business, provide reasonable assistance to the Company in litigation and regulatory matters that relate to events that occurred during the Participant's period of employment with the Company and its predecessors, and provide reasonable assistance to the Company with matters relating to its business or corporate history from the period of the Participant's employment with it or its predecessors (including assisting with the transition of bank accounts and other administrative and transition matters). A Participant will be entitled to reimbursement of reasonable out-of-pocket travel or related costs and expenses relating to any such cooperation or assistance that occurs following the Termination Date.

(f) Termination of Status as Director or Officer. Notwithstanding anything in this Plan to the contrary, unless otherwise agreed to by the Company and a Participant prior to the Termination Date, a Participant shall be deemed to have automatically resigned from all directorships and offices with the Company and its Subsidiaries, and their affiliates (including joint ventures), as of the Termination Date.

(g) Notices. Notices and all other communications provided for in this Plan must be in writing and will be deemed to have been duly given upon receipt (or rejection) when delivered in person or by overnight delivery (to the chief legal officer of the Company in the case of notices to the Company and to the Participant in the case of notices to a Participant) or mailed by United States registered mail, return receipt requested, postage prepaid, and addressed, if to the Company, to its principal place of business, attention: Chief Legal Officer, and, if to the Participant, to the Participant's home address last shown on the records of the Company, or to such other address or addresses as either party may furnish to the other in accordance with this **Section 15(g)**.

(h) Interpretation. The language in all parts of this Plan shall in all cases be construed according to its fair meaning, and not strictly for or against the Company or a Participant. In this Plan, unless the context otherwise requires, the masculine, feminine and neuter genders and the singular and the plural include one another. There shall be no entitlement to benefits and payments under any of **Section 5**, **Section 6** or **Section 7** hereof if a Participant otherwise has been, is, or will be entitled to benefits under one or more different sections among **Section 5**, **Section 6** and **Section 7**.

(i) Non-Waiver of Rights and Breaches. No failure or delay of the Company or a Participant in the exercise of any right given to the Company or the Participant under this Plan shall constitute a waiver unless the time specified for the exercise of such right has expired, nor shall any single or partial exercise of any right preclude other or further exercise thereof or of any other right. The waiver by the Company or the Participant of any default of the Company or the

Participant, as applicable, shall not be deemed to be a waiver of any subsequent default or other default by the Company or the Participant, as applicable.

(j) Successors and Assigns. The rights and obligations of the Company under this Plan will inure to the benefit of, and will be binding on, the Company and its successors and assigns, and the rights and obligations (other than obligations to perform services) of the Participant under this Plan will inure to the benefit of, and will be binding upon, the Participant and the Participant's heirs, personal representatives, and assigns.

(k) Top Hat Plan. This Plan is intended to be a "top hat" plan maintained primarily for a group of management or highly compensated employees.

(l) Governing Law. The provisions of this Plan will be governed by and construed in accordance with the laws of the State of Texas, notwithstanding any conflict of law provision to the contrary. ANY ACTION BROUGHT BY THE COMPANY OR ANY PARTICIPANT SHALL BE BROUGHT AND MAINTAINED IN A COURT OF COMPETENT JURISDICTION IN DALLAS COUNTY IN THE STATE OF TEXAS. EACH PARTICIPANT CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE SET FORTH HEREIN, AND CONSENTS TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUIT, ACTION OR PROCEEDING BY THE MAILING OF THE COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, (1) TO THE PARTICIPANT AT HIS OR HER LAST KNOWN ADDRESS AND (2) TO THE COMPANY BY DELIVERY TO ITS REGISTERED AGENT IN THE STATE OF TEXAS.

(m) Severability. If any provision of this Plan is or becomes invalid or unenforceable in any jurisdiction, or would disqualify this Plan or any compensation under this Plan under any law deemed applicable by the Compensation Committee, such provision will be construed or deemed amended or limited in scope to conform to applicable laws or, in the discretion of the Compensation Committee, it will be stricken and the remainder of this Plan will remain in full force and effect.

(n) Claims Procedure.

- (i) The Compensation Committee has the exclusive right to determine eligibility for benefits under the Plan and to deny or grant a claim, in whole or in part. All claim determinations shall be made by the Compensation Committee (or its delegate) in a uniform and nondiscriminatory manner in accordance with the Plan provisions. The Compensation Committee's decision on a claim for benefits is final and binding on all persons.
 - (ii) Any Participant or his or her authorized representative who believes he or she may be eligible for benefits under this Plan may file a claim for benefits to which the claimant believes he or she is entitled. Claims under this Plan must be made in writing and delivered to the Compensation Committee, in person or by mail, postage prepaid. When a claim has been properly filed, the Compensation Committee
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shall, within 90 days after receipt of such claim, send to the claimant notice of the grant or denial, in whole or in part, of such claim unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed 90 days from the end of the initial period. If such extension is necessary, the claimant will be given notice to this effect prior to the expiration of the initial 90-day period. Any notice of extension shall set forth the special circumstances requiring the extension of time and the date by which the Compensation Committee expects to render its decision on the application for benefits.

- (iii) The Compensation Committee will provide the claimant with written notice in which the claimant shall be advised as to whether the claim is granted or denied, in whole or in part. If a claim is denied, in whole or in part, the notice shall contain: (A) the specific reasons for the denial; (B) references to pertinent Plan provisions on which the denial is based; (C) a description of any additional material or information necessary to perfect the claim and an explanation of why such material or information is necessary; and (D) an explanation of the Plan's claim review procedure, the time limits applicable under the procedures, and a statement regarding the claimant's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended (if applicable) following an adverse benefit determination on appeal.
 - (iv) If a claim is denied, in whole or in part, the claimant shall have the right to request that the Compensation Committee review the denial, provided that the claimant files a written request for review with the Compensation Committee no later than 60 days after the date on which the claimant received written notification of the denial. The request for a review shall be in writing and shall be addressed to the Compensation Committee at the Company's principal office. The request for review shall set forth all of the grounds on which it is based, all facts in support of the request and any other matters which the claimant deems pertinent. The Compensation Committee may require the claimant to submit such additional facts, documents or other material as it may deem necessary or appropriate in making its review. The claimant may submit written comments, documents, records and other information related to the benefit claim on appeal. The claimant must be provided, upon request and free of charge, reasonable access to and copies of any and all records, documents or information on which the Compensation Committee based its determination (the "**Relevant Records**").
 - (v) The Compensation Committee will provide the claimant with written notification of the benefit determination on review within 60
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days after a request for review is received, unless special circumstances require an extension of time for processing the review, in which case the Compensation Committee shall give the claimant written notification within the initial 60-day period specifying the reasons for the extension and when such review shall be completed (provided that such review shall be completed within 120 days after the date on which the request for review was filed). If the Compensation Committee denies the claim on review, in whole or in part, the notification will set forth, in a manner calculated to be understood by the claimant: (A) the specific reason or reasons for the denial; (B) specific references to the Plan provisions on which the denial is based; (C) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to and copies of all Relevant Records; and (D) a description of the claimant's right to obtain information about such procedures and a statement regarding the claimant's right to bring a civil action under section 502(a) of the Employee Retirement Income Security Act of 1974, as amended (if applicable) following the denial on appeal.

Exhibit A

Termination Multipliers

Participation Tier	Applicable Severance Multiplier	Applicable COBRA Multiplier
1	1.0	1.0
2	0.5	0.5
