

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

**AMENDMENT NO. 2  
TO  
FORM S-1  
REGISTRATION STATEMENT**  
*Under  
The Securities Act of 1933*

**Udemy, Inc.**

(Exact name of Registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

7372  
(Primary Standard Industrial  
Classification Code Number)

27-1779864  
(I.R.S. Employer  
Identification Number)

600 Harrison Street, 3rd Floor  
San Francisco, California 94107  
(415) 813-1710

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Gregg Coccari  
President and Chief Executive Officer  
600 Harrison Street, 3rd Floor  
San Francisco, California 94107  
(415) 813-1710

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copies to:*

Tony Jeffries  
Yoichiro Taku  
Lianna Whittleton  
Christina Poulsen  
Wilson Sonsini Goodrich & Rosati  
Professional Corporation  
650 Page Mill Road  
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(650) 493-9300

Ken Hirschman, SVP Operations and General Counsel  
Victoria Nemiah, Associate General Counsel  
Udemy, Inc.  
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Daniel N. Webb  
Simpson Thacher & Bartlett LLP  
2475 Hanover Street  
Palo Alto, California 94304  
(650) 251-5000

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer   
Non-accelerated filer

Accelerated filer   
Smaller reporting company   
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 7(a)(2)(B) of the Securities Act.

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Shares to be Registered <sup>(1)</sup>	Proposed Maximum Aggregate Offering Price Per Share <sup>(2)</sup>	Proposed Maximum Aggregate Offering Price <sup>(1)(2)</sup>	Amount of Registration Fee <sup>(3)</sup>
Common Stock, \$0.00001 par value	16,675,000	\$ 29.00	\$ 483,575,000	\$ 44,828

(1) Includes an additional 2,175,000 shares of common stock that the underwriters have the option to purchase.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(a) under the Securities Act of 1933, as amended.

(3) Previously paid.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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## Explanatory note

This Amendment No. 2 (this "Amendment") to the Registration Statement on Form S-1 (File No. 333-260042) (the "Registration Statement") is being filed solely for the purpose of revising Exhibit 3.1 and Exhibit 10.4, as indicated in Part II of this Amendment. This Amendment does not modify any provision of the prospectus that forms part of the Registration Statement. Accordingly, a preliminary prospectus has been omitted.

## Part II

### Information not required in the prospectus

#### Item 13. Other expenses of issuance and distribution

The following table sets forth the expenses to be incurred in connection with the offering described in this registration statement, other than underwriting discounts and commissions, all of which will be paid by us. All amounts are estimates except the Securities and Exchange Commission, or SEC, registration fee, the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the Nasdaq Global Select Market, or Nasdaq, listing fee.

	Amount paid or to be paid
SEC registration fee	\$ 44,828
FINRA filing fee	73,037
Nasdaq listing fee	295,000
Printing and engraving expenses	525,813
Legal fees and expenses	1,650,000
Accounting fees and expenses	2,708,424
Transfer agent and registrar fees	5,000
Miscellaneous expenses	897,898
<b>Total</b>	<b>\$ 6,200,000</b>

#### Item 14. Indemnification of directors and officers

Section 145 of the Delaware General Corporation Law empowers a corporation to indemnify its directors and officers and to purchase insurance with respect to liability arising out of their capacity or status as directors and officers, provided that the person acted in good faith and in a manner the person reasonably believed to be in our best interests, and, with respect to any criminal action, had no reasonable cause to believe the person's actions were unlawful. The Delaware General Corporation Law further provides that the indemnification permitted thereunder shall not be deemed exclusive of any other rights to which the directors and officers may be entitled under the corporation's bylaws, any agreement, a vote of stockholders or otherwise. The certificate of incorporation of the registrant to be in effect upon the completion of this offering provides for the indemnification of the registrant's directors and officers to the fullest extent permitted under the Delaware General Corporation Law. In addition, the bylaws of the registrant to be in effect upon the completion of this offering require the registrant to fully indemnify 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) by reason of the fact that such person is or was a director or officer of the registrant, or is or was a director or officer of the registrant serving at the registrant's request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, to the fullest extent permitted by applicable law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for payments of unlawful dividends or unlawful stock repurchases or redemptions or (4) for any transaction from which the director derived an improper personal benefit. The registrant's certificate of incorporation to be in effect upon the completion of this offering provides that the registrant's directors shall not be personally liable to it or its stockholders for monetary damages for breach of fiduciary duty as a director and that if the Delaware General Corporation Law is amended to authorize corporate

action further eliminating or limiting the personal liability of directors, then the liability of the registrant's directors shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Section 174 of the Delaware General Corporation Law provides, among other things, that a director who willfully or negligently approves of an unlawful payment of dividends or an unlawful stock purchase or redemption may be held liable for such actions. A director who was either absent when the unlawful actions were approved, or dissented at the time, may avoid liability by causing his, her, or their dissent to such actions to be entered in the books containing minutes of the meetings of the board of directors at the time such action occurred or immediately after such absent director receives notice of the unlawful acts.

As permitted by the Delaware General Corporation Law, the registrant has entered into separate indemnification agreements with each of the registrant's directors and executive officers which would require the registrant, among other things, to indemnify them against certain liabilities which may arise by reason of their status as directors or executive officers.

The registrant expects to obtain and maintain insurance policies under which its directors and officers are insured, within the limits and subject to the limitations of those policies, against certain expenses in connection with the defense of, and certain liabilities which might be imposed as a result of, actions, suits or proceedings to which they are parties by reason of being or having been directors or officers. The coverage provided by these policies may apply whether or not the registrant would have the power to indemnify such person against such liability under the provisions of the Delaware General Corporation Law.

These indemnification provisions and the indemnification agreements entered into between the registrant and the registrant's officers and directors may be sufficiently broad to permit indemnification of the registrant's officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act of 1933, as amended.

The underwriting agreement between the registrant and the underwriters filed as Exhibit 1.1 to this registration statement provides for the indemnification by the underwriters of the registrant's directors and officers and certain controlling persons against specified liabilities, including liabilities under the Securities Act with respect to information provided by the underwriters specifically for inclusion in the registration statement. The investors' rights agreement with certain holders of our capital stock also provides for cross-indemnification in connection with the registration of the registrant's common stock on behalf of such holders.

### **Item 15. Recent sales of unregistered securities**

The following list sets forth information regarding all unregistered securities sold by us since January 1, 2018. No underwriters were involved in the sales and the certificates representing the securities sold and issued contain legends restricting transfer of the securities without registration under the Securities Act or an applicable exemption from registration.

- (1) In March 2020, we issued and sold to investors an aggregate of 2,569,043 shares of our Series E redeemable convertible preferred stock at a purchase price of \$15.57 per share for aggregate consideration of \$39.9 million.
- (2) In November 2020 and December 2020, we issued and sold to investors an aggregate of 3,349,812 shares of our Series F redeemable convertible preferred stock at a purchase price of \$24.13 per share for aggregate consideration of approximately \$80.8 million.
- (3) In January 2021, we issued and sold to an investor 12,595 shares of our Series A-1 redeemable convertible preferred stock upon the exercise of an outstanding warrant at a purchase price of \$0.196 per share. We received approximately \$2,469 in consideration.

- (4) In August 2021, we issued an aggregate of 61,300 shares of our common stock to a former stockholder of CUX (d/b/a CorpU), or CorpU, as partial consideration for the acquisition of CorpU.
- (5) Since January 1, 2018, we granted to certain of our service providers stock options to purchase an aggregate of 29,721,715 shares of common stock upon the exercise of options under our 2010 Plan at exercise prices per share ranging from \$3.06 to \$34.14.
- (6) Since January 1, 2018, we granted to certain of our service providers 113,230 stock appreciation rights under our 2010 Plan at base exercises prices per share ranging from \$3.12 to \$34.14.
- (7) Since January 1, 2018, we issued and sold to certain of our service providers an aggregate of 14,378,073 shares of common stock upon the exercise of options under our 2010 Plan at exercise prices per share ranging from \$0.02 to \$34.14, for aggregate consideration of approximately \$35.4 million.

The offers, sales, and issuances of the securities described in Items 15(1), 15(2), 15(3), and 15(4) were exempt from registration under the Securities Act under Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder as transactions by an issuer not involving a public offering. The recipients of securities in each of these transactions acquired the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the securities issued in these transactions. Each of the recipients of securities in these transactions was an accredited person and had adequate access, through employment, business, or other relationships, to information about the registrant.

The offers, sales, and issuances of the securities described in Items 15(5), 15(6), and 15(7) were exempt from registration under the Securities Act under either (1) Rule 701 in that the transactions were under compensatory benefit plans and contracts relating to compensation as provided under Rule 701 or (2) Section 4(a)(2) of the Securities Act as transactions by an issuer not involving any public offering. The recipients of such securities were the registrant's employees, consultants, or directors and received the securities under our 2010 Plan. The recipients of securities in each of these transactions represented their intention to acquire the securities for investment only and not with view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the securities issued in these transactions.

## **Item 16. Exhibit and financial statement schedules**

### **(a) Exhibits.**

See the exhibit index immediately preceding the signature page hereto for a list of exhibits filed as part of this registration statement on Form S-1, which exhibit index is incorporated herein by reference.

### **(b) Financial statement schedules.**

Schedules have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

## **Item 17. Undertakings**

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or

controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned hereby undertakes that:

- (1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.
- (2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

# Exhibit index

<b>Exhibit number</b>	<b>Description</b>
1.1 <sup>^</sup>	<a href="#">Form of Underwriting Agreement.</a>
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Registrant, as amended and currently in effect.</a>
3.2 <sup>^</sup>	<a href="#">Form of Amended and Restated Certificate of Incorporation of the Registrant, to be in effect upon the completion of this offering.</a>
3.3 <sup>^</sup>	<a href="#">Bylaws of the Registrant, as currently in effect.</a>
3.4 <sup>^</sup>	<a href="#">Form of Amended and Restated Bylaws of the Registrant, to be in effect upon the completion of this offering.</a>
4.1 <sup>^</sup>	<a href="#">Fifth Amended and Restated Investor Rights Agreement by and among the Registrant and certain of its stockholders, dated November 13, 2020.</a>
4.2 <sup>^</sup>	<a href="#">Specimen common stock certificate of the Registrant.</a>
5.1 <sup>^</sup>	<a href="#">Opinion of Wilson Sonsini Goodrich &amp; Rosati, Professional Corporation.</a>
10.1+ <sup>^</sup>	<a href="#">Form of Indemnification Agreement between the Registrant and each of its directors and executive officers.</a>
10.2+ <sup>^</sup>	<a href="#">2010 Equity Incentive Plan, as amended, and forms of agreement thereunder.</a>
10.3+ <sup>^</sup>	<a href="#">2021 Equity Incentive Plan and forms of agreements thereunder, to be in effect upon the completion of this offering.</a>
10.4+	<a href="#">2021 Employee Stock Purchase Plan, as amended and restated, and forms of agreements thereunder, to be in effect upon the completion of this offering.</a>
10.5+ <sup>^</sup>	<a href="#">Employee Incentive Compensation Plan.</a>
10.6+ <sup>^</sup>	<a href="#">Outside Director Compensation Policy.</a>
10.7+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Gregg Coccari.</a>
10.8+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Sarah Blanchard.</a>
10.9+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Velayudhan Venugopal.</a>
10.10+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Gregory Brown.</a>
10.11+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Cara Brennan Allamano.</a>
10.12+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Llibert Argerich.</a>
10.13+ <sup>^</sup>	<a href="#">Confirmatory Employment Letter by and between the Registrant and Prasad Gune.</a>
10.14+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Gregg Coccari.</a>
10.15+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Sarah Blanchard.</a>
10.16+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Velayudhan Venugopal.</a>
10.17+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Gregory Brown.</a>
10.18+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Cara Brennan Allamano.</a>

<b>Exhibit number</b>	<b>Description</b>
10.19+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Libert Argerich.</a>
10.20+ <sup>^</sup>	<a href="#">Change in Control and Severance Agreement by and between the Registrant and Prasad Gune.</a>
21.1 <sup>^</sup>	<a href="#">List of subsidiaries.</a>
23.1 <sup>^</sup>	<a href="#">Consent of Deloitte &amp; Touche LLP, independent registered public accounting firm.</a>
23.2 <sup>^</sup>	<a href="#">Consent of Wilson Sonsini Goodrich &amp; Rosati, Professional Corporation (included in Exhibit 5.1).</a>
24.1 <sup>^</sup>	<a href="#">Power of Attorney (included on page II-7 of the original filing of this registration statement).</a>

<sup>^</sup> Previously filed.

+ Indicates management contract or compensatory plan.



## Signatures

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Francisco, State of California, on October 25, 2021.

UDEMY, INC.

By: /s/ Gregg Coccari  
Gregg Coccari  
President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Gregg Coccari</u> Gregg Coccari	President, Chief Executive Officer, and Chairperson of the Board of Directors ( <i>Principal Executive Officer</i> )	October 25, 2021
<u>/s/ Sarah Blanchard</u> Sarah Blanchard	Chief Financial Officer ( <i>Principal Financial and Accounting Officer</i> )	October 25, 2021
* <u>Eren Bali</u>	Director	October 25, 2021
* <u>Parker Barrile</u>	Director	October 25, 2021
* <u>Kenneth Fox</u>	Director	October 25, 2021
* <u>Heather Hiles</u>	Director	October 25, 2021
* <u>Lawrence Illg</u>	Director	October 25, 2021
* <u>Jeffrey Lieberman</u>	Director	October 25, 2021
* <u>Lydia Paterson</u>	Director	October 25, 2021

\*By: /s/ Gregg Coccari  
Gregg Coccari  
Attorney-in-fact

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
UDEMY, INC.**

Gregg Coccari hereby certifies that:

**ONE:** The original name of this company is Udemy, Inc. and the date of filing of the original Certificate of Incorporation of this company with the Secretary of State of the State of Delaware was January 20, 2010.

**TWO:** He is the duly elected and acting Chief Executive Officer of Udemy, Inc., a Delaware corporation.

**THREE:** The Certificate of Incorporation of this company is hereby amended and restated to read as follows:

**I.**

The name of this company is Udemy, Inc. (the “*Corporation*” or the “*Company*”).

**II.**

The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

**III.**

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law (“*DGCL*”).

**IV.**

**A.** The total number of shares of stock that the Corporation shall have authority to issue is 236,348,646, consisting of (i) 150,000,000 shares of Common Stock, \$0.00001 par value per share (the “*Common Stock*”), and (ii) 86,348,646 shares of Preferred Stock, \$0.00001 par value per share (the “*Preferred Stock*”).

**B.** 8,483,166 of the authorized shares of Preferred Stock are hereby designated “Series A Preferred Stock” (the “*Series A Preferred*”), 15,295,184 of the authorized shares of Preferred Stock are hereby designated “Series A-1 Preferred Stock” (the “*Series A-1 Preferred*”), 22,956,103 of the authorized shares of Preferred Stock are hereby designated “Series B Preferred Stock” (the “*Series B Preferred*”), 16,198,348 of the authorized shares of Preferred Stock are hereby designated “Series C Preferred Stock” (the “*Series C Preferred*”), 16,702,584 of the authorized shares of Preferred Stock are hereby designated “Series D Preferred Stock” (the “*Series D Preferred*”), 2,569,043 of the authorized shares of Preferred Stock are

hereby designated "Series E Preferred Stock" (the "**Series E Preferred**"), and 4,144,218 of the authorized shares of Preferred Stock are hereby designated "Series F Preferred Stock" (the "**Series F Preferred**" and collectively with the Series A Preferred, the Series A-1 Preferred, the Series B Preferred, the Series C Preferred, the Series D Preferred, and the Series E Preferred, the "**Series Preferred**").

C. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of the Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

D. The rights, preferences, privileges, restrictions and other matters relating to the Common Stock and Preferred Stock are as follows:

#### 1. DIVIDEND RIGHTS.

(a) The Corporation shall not declare, pay or set apart for payment any other dividend or make any other distribution on the Common Stock (other than dividends payable in Common Stock on shares of Common Stock) unless the holders of the Series Preferred shall first receive, or simultaneously receive, a dividend on each outstanding share of Series Preferred in an amount at least equal to (i) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of Series Preferred as would equal the product of (A) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of Series Preferred, in each case calculated on the record date for determination of holders entitled to receive such dividend or (ii) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of Series Preferred determined by (A) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such class or series) and (B) multiplying such fraction by an amount equal to the Original Issue Price (as defined below) of the applicable series of Series Preferred; provided, that if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of Series Preferred pursuant to this Section 1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Series Preferred dividend. For purposes of this Restated Certificate, the "**Series A Original Issue Price**" shall mean \$0.24165 per share of Series A Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), the "**Series A-1 Original Issue Price**" shall mean \$0.19600 per share of Series A-1 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), the "**Series B Original Issue Price**" shall mean \$0.53628 per share of Series B Preferred (as adjusted for any stock dividends,

combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), the “**Series C Original Issue Price**” shall mean \$1.97551 per share of Series C Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), the “**Series D Original Issue Price**” shall mean \$6.2177 per share of Series D Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), the “**Series E Original Issue Price**” shall mean \$15.57 per share of Series E Preferred, and the “**Series F Original Issue Price**” shall mean \$24.13 per share of Series F Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), and the Series A Original Issue Price, the Series A-1 Original Issue Price, the Series B Original Issue Price, the Series C Original Issue Price, the Series D Original Issue Price, the Series E Original Issue Price, and the Series F Original Issue Price may each be referred to herein as an “**Original Issue Price**.”

(b) Subject to Section 1(a), the holders of Common Stock and Series Preferred shall be entitled to receive, when and as declared by the Board of Directors, out of any assets of the Corporation legally available therefore, such dividends as may be declared from time to time by the Board of Directors, to be distributed in proportion to such holders as if all shares of Series Preferred had been converted into Common Stock at the then-effective Series Preferred Conversion Rate for each such share of Series Preferred.

## 2. VOTING RIGHTS.

(a) **General Rights.** The holders of Common Stock shall be entitled to one vote for each share thereof held. Each holder of shares of the Series Preferred shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Series Preferred could be converted (pursuant to Section 5 hereof) immediately after the close of business on the record date fixed for such meeting or the effective date of such written consent and shall have voting rights and powers equal to the voting rights and powers of the Common Stock and shall be entitled to notice of any stockholders’ meeting in accordance with the bylaws of the Corporation. Except as otherwise provided herein or as required by law, the Series Preferred shall vote together with the Common Stock at any annual or special meeting of the stockholders and not as a separate class, and may act by written consent in the same manner as the Common Stock. Except as otherwise provided herein or as required by law, there shall be no series voting.

(b) **Separate Vote of Series Preferred.** So long as any shares of Series Preferred are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Amended and Restated Certificate of Incorporation (this “**Restated Certificate**”)) the written consent or affirmative vote of the holders of at least sixty-five percent (65%) of the then outstanding shares of Series Preferred, voting together as a single class on an as-converted basis (collectively, the “**Requisite Holders**”):

(i) Redeem, purchase or otherwise acquire, directly or indirectly, any of the Company's debt or equity securities, excluding (A) repurchases of equity securities from an employee, consultant or director of the Company upon termination of such person's employment, consultancy or directorship with the Company and (B) redemptions of Preferred Stock as set forth in herein;

(ii) Declare or pay, directly or indirectly, any dividends or make any distributions upon any shares of Common Stock or Preferred Stock;

(iii) Authorize, create, designate or issue, whether by reclassification or otherwise, any new or additional class or series of capital stock (or any other securities convertible into equity securities of the Corporation) ranking on a parity with or senior to the Series Preferred in right of redemption, liquidation preference, conversion, voting or dividend rights;

(iv) Increase the authorized number of shares of Series Preferred or increase the authorized or designated number of any new or additional class or series of capital stock;

(v) Amend, alter, or repeal any provision of the Restated Certificate or the Bylaws of the Corporation (including any filing of a Certificate of Designation), whether by merger, consolidation or otherwise;

(vi) Undertake or enter into a Liquidation Event, Asset Sale or Acquisition (each as defined in Section 3 or 4 hereof);

(vii) Voluntarily dissolve or liquidate the Corporation or recapitalize or reclassify any of the outstanding stock of the Corporation;

(viii) Increase the number of shares of Common Stock reserved for issuance pursuant to the Company's 2010 Equity Incentive Plan, or establish any new employee stock option plan, employee stock purchase plan, employee restricted stock plan or other similar stock plan;

(ix) Create, or authorize the creation of, or issue, or authorize the issuance of, any debt security or other indebtedness for borrowed money in excess of \$8,000,000 in the aggregate;

(x) Enter into (directly or indirectly) any transaction with any officer or director of the Company, any of their respective immediate family members or any entity that such persons control, other than transactions approved by the Board, including at least two (2) Preferred Directors;

(xi) Enter into (directly or indirectly) any exclusive outbound license, distribution or partnership agreement pursuant to which the Company licenses its intellectual property, technology or other proprietary rights (including without limitation, any software and design documentation) on an exclusive basis to any third party, unless approved by the Board, including at least two (2) Preferred Directors;

(xii) Increase or reduce the size of the Board;

(xiii) Materially alter or modify the Company's primary line of business, unless approved by the Board, including at least two (2) Preferred Directors;

(xiv) Enter into (directly or indirectly) the ownership, management or operation of any business other than the business anticipated to be conducted by the Company as of the date of the Closing, unless approved by the Board, including at least two (2) Preferred Directors;

(xv) Amend, alter or modify the preferences, privileges or rights of any Series Preferred;

(xvi) Undertake or enter into any acquisition of or investment in another entity by the Corporation with a value in excess of \$8,000,000 that is not included in an annual budget approved by the Board, including at least two (2) Preferred Directors; or

(xvii) Undertake or enter into any material change in the compensation of employees who are Subject Holders (as that term is defined in that certain Fifth Amended and Restated Right of First Refusal and Co-Sale Agreement by and among the parties named therein dated on or about the Series F Original Issue Date) other than changes as approved by the Board, including at least two (2) Preferred Directors.

**(c) Election of Board of Directors.**

(i) For so long as any shares of Series A Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof) remain outstanding, the holders of Series A Preferred, voting exclusively and as a separate class on an as-converted basis, shall be entitled to elect one (1) members of the Board (the "**Series A Director**") at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office any such director and to fill any vacancy caused by the resignation, death or removal of any such director.

(ii) For so long as any shares of Series B Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof) remain outstanding, the holders of Series B Preferred, voting exclusively and as a separate class on an as-converted basis, shall be entitled to elect two (2) members of the Board (the "**Series B Directors**") at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office any such director and to fill any vacancy caused by the resignation, death or removal of any such director.

(iii) For so long as any shares of Series C Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof) remain outstanding, the holders of Series C Preferred, voting exclusively and as a separate class on an as-converted basis, shall be entitled to elect one (1) member of the Board (the "**Series C Director**") at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office any such director and to fill any vacancy caused by the resignation, death or removal of any such director.

(iv) For so long as any shares of Series D Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof) remain outstanding, the holders of Series D Preferred, voting exclusively and as a separate class on an as-converted basis, shall be entitled to elect one (1) member of the Board (the “**Series D Director**” and together with the Series B Directors and the Series C Director, the “**Preferred Directors**”) at each meeting or pursuant to each consent of the Company’s stockholders for the election of directors, and to remove from office any such director and to fill any vacancy caused by the resignation, death or removal of any such director.

(v) The holders of shares of Common Stock shall be entitled to elect two (2) members of the Board at each meeting or pursuant to each consent of the Company’s stockholders for the election of directors, and to remove from office any such director and to fill any vacancy caused by the resignation, death or removal of any such director.

(vi) If the holders of shares of Series A Preferred fail to elect a director to fill the directorship for which they are entitled to elect, voting exclusively and as a separate class, pursuant to clause (i) of this Section 2(c), then such directorship not so filled shall remain vacant until such time as the holders of the Series A Preferred elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class.

(vii) If the holders of shares of Series B Preferred fail to elect a director to fill the directorship for which they are entitled to elect, voting exclusively and as a separate class, pursuant to clause (ii) of this Section 2(c), then such directorship not so filled shall remain vacant until such time as the holders of the Series B Preferred elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class.

(viii) If the holders of shares of Series C Preferred fail to elect a director to fill the directorship for which they are entitled to elect, voting exclusively and as a separate class, pursuant to clause (iii) of this Section 2(c), then such directorship not so filled shall remain vacant until such time as the holders of the Series C Preferred elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class.

(ix) If the holders of shares of Series D Preferred fail to elect a director to fill the directorship for which they are entitled to elect, voting exclusively and as a separate class, pursuant to clause (iv) of this Section 2(c), then such directorship not so filled shall remain vacant until such time as the holders of the Series D Preferred elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class.

(x) The holders of Common Stock and Series Preferred, voting together as a single class on an as-converted basis, shall be entitled to elect all remaining members of the Board at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

### 3. LIQUIDATION RIGHTS.

Upon any liquidation, dissolution or winding up of the Corporation (a "**Liquidation Event**"), whether voluntary or involuntary, any amounts or assets of the Corporation (or the consideration received in such transaction) legally available for distribution to holders of the Corporation's capital stock of all classes shall be paid as follows:

(a) *First*, the holders of the shares of Series Preferred shall be entitled, before any distribution or payment is made upon any Common Stock, to be paid (i) an amount per share of Series A Preferred equal to the Series A Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series A Preferred for each share of Series A Preferred held by them (the "**Series A Liquidation Preference**"), (ii) an amount per share of Series A-1 Preferred equal to the Series A-1 Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series A-1 Preferred for each share of Series A-1 Preferred held by them (the "**Series A-1 Liquidation Preference**"), (iii) an amount per share of Series B Preferred equal to the Series B Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series B Preferred for each share of Series B Preferred held by them (the "**Series B Liquidation Preference**"), (iv) an amount per share of Series C Preferred equal to the Series C Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series C Preferred for each share of Series C Preferred held by them (the "**Series C Liquidation Preference**"), (v) an amount per share of Series D Preferred equal to the Series D Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series D Preferred for each share of Series D Preferred held by them (the "**Series D Liquidation Preference**"), (vi) an amount per share of Series E Preferred equal to the Series E Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series E Preferred for each share of Series E Preferred held by them (the "**Series E Liquidation Preference**"), and (vii) an amount per share of Series F Preferred equal to the Series F Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), plus any dividends declared but unpaid on the Series F Preferred for each share of Series F Preferred held by them (the "**Series F Liquidation Preference**" and collectively with the Series



A Liquidation Preference, the Series A-1 Liquidation Preference, the Series B Liquidation Preference, the Series C Liquidation Preference, the Series D Liquidation Preference, and the Series E Liquidation Preference, the “**Series Preferred Liquidation Preference**”). If, upon any such Liquidation Event, the assets of the Corporation (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series Preferred of the Series Preferred Liquidation Preference, then such assets (or consideration) shall be distributed among the holders of Series Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled pursuant to this Section 3(a) if the entire Series Preferred Liquidation Preference were paid in full.

(b) *Second*, after the payment of the full Series Preferred Liquidation Preference pursuant to Section 3(a) above, the remaining assets of the Company legally available for distribution in such Liquidation Event (or the consideration received by the Company or its stockholders in such Acquisition or Asset Sale), if any, shall be distributed ratably to the holders of the Common Stock.

(c) Notwithstanding anything to the contrary in this Restated Certificate, upon any Liquidation Event (including an Acquisition or Asset Sale, each as defined below) each holder of Series Preferred shall be entitled to receive, for each share of each series of Series Preferred then held, out of the proceeds available for distribution, the greater of (i) the amount of cash, securities or other property to which such holder would be entitled to receive with respect to such shares in a Liquidation Event pursuant to Section 3(a) (without giving effect to this Section 3(c)) or (ii) the amount of cash, securities or other property to which such holder would be entitled to receive in a Liquidation Event with respect to such shares if such shares had been converted to Common Stock immediately prior to such Liquidation Event or Acquisition or Asset Sale, giving effect to this Section 3(c) with respect to all series of Preferred Stock simultaneously.

#### **4. ACQUISITION OR ASSET SALE RIGHTS.**

(a) For the purposes of this Restated Certificate: (i) “**Acquisition**” shall mean (A) any consolidation or merger of the Corporation with or into any other corporation or other entity or person, or any other corporate reorganization, other than any such consolidation, merger or reorganization in which the stockholders of the Corporation immediately prior to such consolidation, merger or reorganization, continue to hold a majority of the voting power of the surviving entity in substantially the same proportions (or, if the surviving entity is a wholly owned subsidiary, its parent) immediately after such consolidation, merger or reorganization; or (B) any transaction or series of related transactions to which the Corporation is a party in which in excess of fifty percent (50%) of the Corporation’s voting power is transferred; *provided*, that an Acquisition shall not include any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by the Corporation or any successor or indebtedness of the Corporation is cancelled or converted or a combination thereof; (ii) “**Asset Sale**” shall mean a sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Corporation except where such sale, lease, exclusive license or other disposition is to a wholly-owned subsidiary of the Corporation; and (iii) any such Acquisition or Asset Sale shall be deemed a Liquidation Event and the provisions of Section 3 above shall apply, unless the Requisite Holders elect otherwise by delivery of written notice to the Corporation prior to such event.

(b) In any Acquisition or Asset Sale, if the consideration to be received is securities of a corporation or other property other than cash, its value will be deemed its fair market value as determined in good faith by the Board on the date such determination is made.

(c) In the event of an Acquisition or Asset Sale, if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow and/or is payable to the stockholders of the Corporation subject to contingencies, the definitive agreement for such transaction shall provide that (a) the portion of such consideration that is not placed in escrow and not subject to any contingencies (the “**Initial Consideration**”) shall be allocated among the holders of capital stock of the Corporation in accordance with Section 3 as if the Initial Consideration were the only consideration payable in connection with such Liquidation and (b) any additional consideration which becomes payable to the stockholders of the Corporation upon release from escrow or satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Section 3 after taking into account the previous payment of the Initial Consideration as part of the same transaction.

**5. CONVERSION RIGHTS.** The holders of the Series Preferred shall have the following rights with respect to the conversion of the Series Preferred into shares of Common Stock (the “**Conversion Rights**”):

(a) **Optional Conversion.** Subject to and in compliance with the provisions of this Section 5, any shares of Series Preferred may, at the option of the holder, be converted at any time into fully-paid and non-assessable shares of Common Stock. The number of shares of Common Stock to which a holder of Series Preferred shall be entitled upon conversion shall be the product obtained by multiplying the “Series Preferred Conversion Rate” then in effect (determined as provided in Section 5(b)) by the number of shares of the Series Preferred being converted.

(b) **Series Preferred Conversion Rate.** The conversion rate in effect at any time for conversion of the Series Preferred (the “**Series Preferred Conversion Rate**”) shall be the quotient obtained by dividing the applicable Original Issue Price by the applicable “Series Preferred Conversion Price” then in effect, calculated as provided in Section 5(c).

(c) **Series Preferred Conversion Price.** The conversion price for the Series Preferred shall initially be the applicable Original Issue Price of the applicable series of Series Preferred (the “**Series Preferred Conversion Price**”). Such initial Series Preferred Conversion Price shall be adjusted from time to time in accordance with this Section 5. All references to the Series Preferred Conversion Price herein shall mean the Series Preferred Conversion Price as so adjusted.

(d) **Mechanics of Conversion.** Each holder of Series Preferred who desires to convert the same into shares of Common Stock pursuant to this Section 5 shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any transfer agent for the Series Preferred, and shall give written notice to the Corporation at such office that such holder elects to convert the same. Such notice shall state the number of shares of Series Preferred being converted. Thereupon, the Corporation shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled and shall promptly pay (i) in cash or, to the extent sufficient funds are not then legally available therefor, in Common Stock (at the Common Stock's fair market value determined by the Board as of the date of such conversion), any declared but unpaid dividends on the shares of Series Preferred being converted and (ii) in cash (at the Common Stock's fair market value determined by the Board as of the date of conversion) the value of any fractional share of Common Stock otherwise issuable to any holder of Series Preferred. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Series Preferred to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

(e) **Adjustment for Stock Splits and Combinations.** If at any time or from time to time on or after the date the first share of Series F Preferred was issued (the "*Series F Original Issue Date*") the Corporation effects a subdivision of the outstanding Common Stock without a corresponding subdivision of the Series Preferred, the applicable Series Preferred Conversion Prices in effect immediately before that subdivision shall be proportionately decreased. Conversely, if at any time or from time to time after the Series F Original Issue Date the Corporation combines the outstanding shares of Common Stock into a smaller number of shares without a corresponding combination of the Series Preferred, the Series Preferred Conversion Prices in effect immediately before the combination shall be proportionately increased. Any adjustment under this Section 5(e) shall become effective at the close of business on the date the subdivision or combination becomes effective.

(f) **Adjustment for Common Stock Dividends and Distributions.** If at any time or from time to time on or after the Series F Original Issue Date the Corporation pays to holders of Common Stock a dividend or other distribution in additional shares of Common Stock without a corresponding dividend or other distribution to holders of Preferred Stock, the Series Preferred Conversion Prices then in effect shall be decreased as of the time of such issuance, as provided below:

(i) The applicable Series Preferred Conversion Price shall be adjusted to a price (rounded to the nearest one-hundredth of one cent) determined by multiplying the applicable Series Preferred Conversion Price then in effect by a fraction:

(A) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance, and

(B) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance, plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

(ii) If the Corporation fixes a record date to determine which holders of Common Stock are entitled to receive such dividend or other distribution, the applicable Series Preferred Conversion Price shall be fixed as of the close of business on such record date and the number of shares of Common Stock shall be calculated immediately prior to the close of business on such record date; and

(iii) If such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the applicable Series Preferred Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the applicable Series Preferred Conversion Price shall be adjusted pursuant to this Section 5(f) to reflect the actual payment of such dividend or distribution.

**(g) Adjustment for Reclassification, Exchange, Substitution, Reorganization, Merger or Consolidation.** If at any time or from time to time on or after the Series F Original Issue Date, the Common Stock issuable upon the conversion of the Series Preferred is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification, merger, consolidation or otherwise (other than an Acquisition or Asset Sale as defined in Section 4 or a subdivision or combination of shares or stock dividend provided for elsewhere in this Section 5), in any such event each holder of Series Preferred shall then have the right to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification, merger, consolidation or other change by holders of the maximum number of shares of Common Stock into which such shares of Series Preferred could have been converted immediately prior to such recapitalization, reclassification, merger, consolidation or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 5 with respect to the rights of the holders of Series Preferred after the capital reorganization to the end that the provisions of this Section 5 (including adjustment of the applicable Series Preferred Conversion Price then in effect and the number of shares issuable upon conversion of the Series Preferred) shall be applicable after that event and be as nearly equivalent as practicable.

**(h) Sale of Shares Below Series Preferred Conversion Price.**

(i) If at any time or from time to time on or after the Series F Original Issue Date the Corporation issues or sells, or is deemed by the express provisions of this Section 5(h) to have issued or sold, Additional Shares of Common Stock (as defined below), other than as provided in Section 5(e), 5(f) or 5(g) above, for an Effective Price (as defined below) less than any then effective Series Preferred Conversion Price (each a “*Qualifying Dilutive Issuance*”), then and in each such case, such then effective Series Preferred Conversion Price, with respect to such Qualifying Dilutive Issuance applicable to a series of Series Preferred, shall be reduced, as applicable, as of the opening of business on the date of such issue or sale, to a price (rounded to the nearest one-hundredth of one cent) determined by multiplying the applicable Series Preferred Conversion Price in effect immediately prior to such issuance or sale by a fraction:

(A) the numerator of which shall be (1) the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale, plus (2) the number of shares of Common Stock which the Aggregate Consideration (as defined below) received or deemed received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at such then-existing applicable Series Preferred Conversion Price, and

(B) the denominator of which shall be the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale, plus the total number of Additional Shares of Common Stock so issued.

For the purposes of the preceding sentence, the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of (x) the number of shares of Common Stock outstanding, (y) the number of shares of Common Stock into which the then outstanding shares of Series Preferred could be converted if fully converted on the day immediately preceding the given date, and (z) the number of shares of Common Stock which are issuable upon the exercise or conversion of all other rights, options and convertible securities outstanding on the day immediately preceding the given date.

Notwithstanding the provisions of this Section 5(h), (i) no adjustment to the Series A Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series A Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series A Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series A Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (ii) no adjustment to the Series A-1 Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series A-1 Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series A-1 Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series A-1 Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (iii) no adjustment to the Series B Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series B Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series B Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series B Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (iv) no adjustment to the Series C Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series C Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series C Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series C Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (v) no adjustment to the Series D Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than

the Series D Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series D Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series D Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (vi) no adjustment to the Series E Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series E Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series E Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series E Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, and (vii) no adjustment to the Series F Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on or before the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series F Preferred Conversion Price then in effect, the holders of at least 80% of the outstanding shares of the Series F Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series F Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale.

(ii) No adjustment shall be made to the applicable Series Preferred Conversion Price in an amount less than one cent per share. Any adjustment required by this Section 5(h) shall be rounded to the nearest one-hundredth of one cent (\$0.0001) per share. Any adjustment otherwise required by this Section 5(h) that is not required to be made due to the preceding two sentences shall be included in any subsequent adjustment to the applicable Series Preferred Conversion Price.

(iii) For the purpose of making any adjustment required under this Section 5(h), the aggregate consideration received by the Corporation for any issue or sale of securities (the “**Aggregate Consideration**”) shall be defined as: (A) to the extent it consists of cash, be computed at the gross amount of cash received by the Corporation before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale and without deduction of any expenses payable by the Corporation, (B) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board, and (C) if Additional Shares of Common Stock, Convertible Securities (as defined below) or rights or options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Corporation for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board to be allocable to such Additional Shares of Common Stock, Convertible Securities or rights or options.

(iv) For the purpose of the adjustment required under this Section 5(h), if the Corporation issues or sells (x) Preferred Stock or other stock, options, warrants, purchase rights or other securities convertible into, Additional Shares of Common Stock (such convertible stock or securities being herein referred to as “**Convertible Securities**”) or (y) rights or options for the purchase of Additional Shares of Common Stock or Convertible Securities and if the Effective Price of such Additional Shares of Common Stock is less than the applicable Series Preferred Conversion Price, in each case the Corporation shall be deemed to have issued at the time of the issuance of such rights or options or Convertible Securities the

maximum number of Additional Shares of Common Stock issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of such rights or options or Convertible Securities plus:

(A) in the case of such rights or options, the minimum amounts of consideration, if any, payable to the Corporation upon the exercise of such rights or options; and

(B) in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation upon the conversion thereof (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities); *provided* that if the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, the Corporation shall be deemed to have received the minimum amounts of consideration without reference to such clauses.

(C) If the minimum amount of consideration payable to the Corporation upon the exercise or conversion of rights, options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by reason of antidilution adjustments, the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; *provided further*, that if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of such rights, options or Convertible Securities is subsequently increased, the Effective Price shall be again recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise or conversion of such rights, options or Convertible Securities.

(D) No further adjustment of the applicable Series Preferred Conversion Price, as adjusted upon the issuance of such rights, options or Convertible Securities, shall be made as a result of the actual issuance of Additional Shares of Common Stock or the exercise of any such rights or options or the conversion of any such Convertible Securities. If any such rights or options or the conversion privilege represented by any such Convertible Securities shall expire without having been exercised, the applicable Series Preferred Conversion Price as adjusted upon the issuance of such rights, options or Convertible Securities shall be readjusted to the applicable Series Preferred Conversion Price which would have been in effect had an adjustment been made on the basis that the only Additional Shares of Common Stock so issued were the Additional Shares of Common Stock, if any, actually issued or sold on the exercise of such rights or options or rights of conversion of such Convertible Securities, and such Additional Shares of Common Stock, if any, were issued or sold for the consideration actually received by the Corporation upon such exercise, plus the consideration, if any, actually received by the Corporation for the granting of all such rights or options, whether or not exercised, plus the consideration received for issuing or selling the Convertible Securities actually converted, plus the consideration, if any, actually received by the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion of such Convertible Securities, *provided* that such readjustment shall not apply to prior conversions of Series Preferred.

(v) For the purpose of making any adjustment to the Conversion Price of any series of the Series Preferred, and as required under this Section 5(h), “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued by the Corporation or deemed to be issued pursuant to this Section 5(h) (including shares of Common Stock subsequently reacquired or retired by the Corporation), other than:

(A) shares of Common Stock issued upon conversion of the Series Preferred;

(B) shares of Common Stock and/or options, warrants or other Common Stock purchase rights and the Common Stock issued pursuant to such options, warrants or other rights (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like after the filing date hereof) after the Series F Original Issue Date to employees, officers or directors of, or consultants or advisors to, the Company or any subsidiary pursuant to stock purchase or stock option plans or other arrangements that are approved by the Board; *provided, however*, that such amount shall be increased to reflect any shares of Common Stock (i) not issued pursuant to the rights, agreements, option or warrants (“**Unexercised Options**”) as a result of the termination of such Unexercised Options or (ii) reacquired by the Company from employees, directors, consultants or advisors at cost (or the lesser of cost or fair market value) pursuant to agreements which permit the Company to repurchase such shares upon termination of services to the Company;

(C) shares of Common Stock issued pursuant to the exercise of Convertible Securities outstanding as of the Series F Original Issue Date;

(D) shares of Common Stock or Convertible Securities issued for consideration other than cash pursuant to a merger, consolidation, acquisition, strategic alliance or similar business combination approved by the Board, including the approval of at least two (2) Preferred Directors;

(E) shares of Common Stock or Convertible Securities issued pursuant to any equipment loan or leasing arrangement, real property leasing arrangement or debt financing from a bank or similar financial institution approved by the Board, including the approval of at least two (2) Preferred Directors;

(F) shares of Common Stock or Convertible Securities issued in connection with a Qualified Offering (as defined below);



(G) shares of Common Stock or Convertible Securities issued to third-party service providers in exchange for or as partial consideration for services rendered to the Corporation; *provided* that the issuance of shares therein has been approved by the Board, including the approval of at least two (2) Preferred Directors; and

(H) any Common Stock or Convertible Securities issued in connection with strategic transactions involving the Corporation and other entities, including (i) joint ventures, manufacturing, marketing or distribution arrangements or (ii) technology transfer or development arrangements; *provided* that the issuance of shares therein has been approved by the Corporation's Board, including the approval of at least two (2) Preferred Directors.

References to Common Stock in the subsections of this clause (v) shall mean all shares of Common Stock issued by the Corporation or deemed to be issued pursuant to this Section 5(h). The "**Effective Price**" of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold by the Corporation under this Section 5(h), into the Aggregate Consideration received, or deemed to have been received by the Corporation for such issue under this Section 5(h), for such Additional Shares of Common Stock. In the event that the number of shares of Additional Shares of Common Stock or the Effective Price cannot be ascertained at the time of issuance, such Additional Shares of Common Stock shall be deemed issued immediately upon the occurrence of the first event that makes such number of shares or the Effective Price, as applicable, ascertainable.

(vi) In the event that the Corporation issues or sells, or is deemed to have issued or sold, Additional Shares of Common Stock in a Qualifying Dilutive Issuance (the "**First Dilutive Issuance**"), then in the event that the Corporation issues or sells, or is deemed to have issued or sold, Additional Shares of Common Stock in a Qualifying Dilutive Issuance other than the First Dilutive Issuance as a part of the same transaction or series of related transactions as the First Dilutive Issuance (a "**Subsequent Dilutive Issuance**"), then and in each such case upon a Subsequent Dilutive Issuance the Series Preferred Conversion Price shall be reduced to the Series Preferred Conversion Price that would have been in effect had the First Dilutive Issuance and each Subsequent Dilutive Issuance all occurred on the closing date of the First Dilutive Issuance.

(i) **Certificate of Adjustment.** In each case of an adjustment or readjustment of the applicable Series Preferred Conversion Price for the number of shares of Common Stock or other securities issuable upon conversion of the applicable series of Series Preferred, if the Series Preferred is then convertible pursuant to this Section 5, the Corporation, at its expense, shall compute such adjustment or readjustment in accordance with the provisions hereof and shall, upon request, prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of the applicable series of Series Preferred so requesting at the holder's address as shown in the Corporation's books. The certificate shall set forth such adjustment or readjustment, showing in detail the facts upon which such adjustment or readjustment is based, including a statement of (i) the consideration received or deemed to be received by the Corporation for any Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, (ii) the applicable Series Preferred Conversion Price at the time in effect, (iii) the number of Additional Shares of Common Stock and (iv) the type and amount, if any, of other property which at the time would be received upon conversion of the applicable series of Series Preferred. Failure to request or provide such notice shall have no effect on any such adjustment.

**(j) Notices of Record Date.** Upon (i) any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition (as defined in Section 4) or other capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation with or into any other corporation, or any Asset Sale (as defined in Section 4), or any voluntary or involuntary dissolution, liquidation or winding up of the Corporation, the Corporation shall mail to each holder of Preferred Stock at least ten (10) days prior to (x) the record date, if any, specified therein; or (y) if no record date is specified, the date upon which such action is to take effect (or, in either case, such shorter period approved by the Requisite Holders) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Sale, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Sale, dissolution, liquidation or winding up.

**(k) Automatic Conversion.**

(i) Each share of Series Preferred shall automatically be converted into shares of Common Stock, based on the applicable then-effective Series Preferred Conversion Price, upon the earliest to occur of any of the following events: (A) at any time upon the affirmative election of each of the following: (1) the holders of at least 35% of the then outstanding shares of Series A Preferred and Series A-1 Preferred, voting together as a single class on an as-converted basis, (2) the holders of a majority of the then outstanding shares of Series A Preferred, voting as a separate class, (3) the holders of a majority of the then outstanding shares of Series B Preferred, voting as a separate class, (4) the holders of a majority of the then outstanding shares of Series C Preferred, voting as a separate class, (5) the holders of at least 60% of the then outstanding shares of Series D Preferred, voting as a separate class, (6) the holders of a majority of the then outstanding shares of Series E Preferred, voting as a separate class, and (7) the holders of at least 80% of the then outstanding shares of Series F Preferred, voting as a separate class; or (B) immediately upon the direct listing of shares of Common Stock on a nationally recognized exchange or the closing of a firmly underwritten public offering on a nationally recognized exchange pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “**Securities Act**”), covering the offer and sale of shares of Common Stock for the account of the Corporation in which the aggregate gross proceeds to the Corporation for such shares in such offering is at least \$50,000,000 (each event, a “**Qualified Offering**”). Upon such automatic conversion, any declared but unpaid dividends with respect to the Series Preferred shall be paid in accordance with the provisions of Section 5(d).

(ii) [Reserved].

(iii) Upon the occurrence of the events specified in Section 5(k)(i) above, as applicable, the outstanding shares of Series Preferred shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; *provided, however*, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Series Preferred are either delivered to the Corporation or its transfer agent as provided below, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series Preferred, the holders of the Series Preferred shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the Series Preferred. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Series Preferred surrendered were convertible on the date on which such automatic conversion occurred, and any accrued and unpaid dividends shall be paid in accordance with the provisions of Section 5(d).

(l) Series F Conversion Price Adjustment in connection with an Initial Public Offering. Notwithstanding anything in this Certificate of Incorporation to the contrary, in the event of the Corporation's initial sale of its Common Stock in a firmly underwritten public offering pursuant to a registration statement under the Securities Act in which all of the Series F Preferred Stock are to be converted to Common Stock (an "IPO Preference Triggering Offering"), in which the actual initial offering price to the public (prior to any underwriting discounts) in such IPO Preference Triggering Offering (the "IPO Price") is less than \$24.13 (as adjusted for stock splits, stock dividends, reclassification and the like), then the Conversion Price for each share of Series F Preferred Stock shall be adjusted immediately prior to the conversion of the Series F Preferred Stock into Common Stock in connection with such IPO Preference Triggering Offering to a price equal to the IPO Price (as adjusted for stock splits, stock dividends, reclassification and the like). Notwithstanding the foregoing, no adjustment of the Conversion Price of the Series F Preferred Stock pursuant to this Section 5(l) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment. This Section 5(l) shall not be amended or waived without the written consent or affirmative vote of the holders of at least 80% of the outstanding shares of Series F Preferred Stock.

(m) **Fractional Shares.** No fractional shares of Common Stock shall be issued upon conversion of Series Preferred. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series Preferred by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of any fractional share, the Corporation shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the fair market value of one share of Common Stock (as determined by the Board) on the date of conversion.

(n) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series Preferred, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series Preferred. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series Preferred, the Corporation will take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(o) **Notices.** Any notice required by the provisions of this Section 5 shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Corporation.

(p) **Payment of Taxes.** The Corporation will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to the issue or delivery of shares of Common Stock upon conversion of shares of Series Preferred, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Series Preferred so converted were registered.

(q) **Termination of Conversion Rights.** In the event of a notice of redemption of any shares of Preferred Stock pursuant to Section 6, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full.

## 6. REDEMPTION.

(a) **General.** Unless prohibited by Delaware law governing distributions to stockholders, shares of Preferred Stock shall be redeemed by the Corporation at a price equal to the applicable Original Issue Price per share of applicable Preferred Stock, plus all declared but unpaid dividends thereon, as of the date of the Corporation's receipt of the Redemption Request (the "**Redemption Price**"), in one installment commencing not more than 60 days after receipt by the Corporation at any time on or after the sixth anniversary of the Series F Original Issue Date, from the Requisite Holders of written notice requesting redemption of all shares of Preferred Stock (the "**Redemption Request**"). Upon receipt of a Redemption Request, the Corporation shall apply all of its assets to any such redemption, and to no other corporate purpose, except to the extent prohibited by Delaware law governing distributions to stockholders. The date of such installment shall be referred to as the "**Redemption Date**". On the Redemption Date, the Corporation shall redeem all outstanding shares of Preferred Stock. If on the Redemption Date Delaware law governing distributions to stockholders prevents the Corporation from redeeming all shares of Preferred Stock to be redeemed, the Corporation shall ratably redeem from the holders of Preferred Stock (in proportion to the full amounts such holders would otherwise be entitled to receive pursuant to this Section 6(a)) the maximum number of shares that it may redeem consistent with such law, and shall redeem the remaining shares as soon as it may lawfully do so under such law.

(b) Redemption Notice. The Corporation shall send written notice of the mandatory redemption (the “**Redemption Notice**”) to each holder of record of Preferred Stock not less than 40 days prior to the Redemption Date. The Redemption Notice shall state:

(i) the number of shares of Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(ii) the Redemption Date and the Redemption Price;

(iii) the date upon which the holder’s right to convert such shares terminates (as determined in accordance with Section 5);

and

(iv) that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Preferred Stock to be redeemed.

(c) Surrender of Certificates; Payment. On or before the Redemption Date, each holder of shares of Preferred Stock to be redeemed on the Redemption Date, unless such holder has exercised his, her or its right to convert such shares as provided in Section 5, shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Preferred Stock shall promptly be issued to such holder.

(d) Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the Redemption Date the Redemption Price payable upon redemption of the shares of Preferred Stock to be redeemed on the Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the certificates evidencing any of the shares of Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Preferred Stock shall cease to accrue after the Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price without interest upon surrender of their certificate or certificates therefor.

**7. NO REISSUANCE OF SERIES PREFERRED.**

No shares of Series Preferred acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued.

**8. APPLICABLE CALIFORNIA LAW.**

For purposes of Section 500 of the California Corporations Code (to the extent applicable), in connection with any repurchase of shares of Common Stock permitted under this Certificate of Incorporation from employees, officers, directors or consultants of the Corporation in connection with a termination of employment or services pursuant to agreements or arrangements approved by the Board of Directors, including the Preferred Directors, (in addition to any other consent required under this Certificate of Incorporation), such repurchase may be made without regard to any “preferential dividends arrear amount” or “preferential rights amount” (as those terms are defined in Section 500 of the California Corporations Code). Accordingly, for purposes of making any calculation under California Corporations Code Section 500 in connection with such repurchase, the amount of any “preferential dividends arrear amount” or “preferential rights amount” (as those terms are defined therein) shall be deemed to be zero.

**V.**

**A.** The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent under applicable law.

**B.** The Corporation shall indemnify, in accordance with and to the full extent now or hereafter permitted by law, 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 (including, but not limited to, an action by or in the right of the Corporation), by reason of his acting as a director or officer of the Corporation (and the Corporation, in the discretion of the Board, may so indemnify a person by reason of the fact that he is or was an employee of the Corporation or is or was serving at the request of the Corporation in any other capacity for or on behalf of the Corporation) against any liability or expense actually and reasonably incurred by such person in respect thereof. Such indemnification shall not be exclusive of any other right to indemnification provided by law or otherwise. Expenses incurred by an officer or director in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of such officer or director to repay such amount if it shall ultimately be determined that such officer or director is not entitled to be indemnified. The right to indemnification and advancement of expenses on the condition specified herein conferred by this Article V shall be deemed a contract between the Corporation and each person referred to herein.

**C.** Any repeal or modification of this Article V shall only be prospective and shall not affect the rights under this Article V in effect at the time of the alleged occurrence of any action or omission to act giving rise to liability.

**D.** The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An “**Excluded Opportunity**” is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, “**Covered Persons**”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation.

## **VI.**

For the management of the business and for the conduct of the affairs of the Corporation, and in further definition, limitation and regulation of the powers of the Corporation, of its directors and of its stockholders or any class thereof, as the case may be, it is further provided that:

**A.** The management of the business and the conduct of the affairs of the Corporation shall be vested in its Board. The number of directors which shall constitute the whole Board shall be fixed by the Board in the manner provided in the Bylaws, subject to any restrictions which may be set forth in this Restated Certificate.

**B.** Except for any vote of the holders of any class or series of stock of the Corporation required by law or by this Restated Certificate, the Board is expressly empowered to adopt, amend or repeal the Bylaws of the Corporation.

**C.** The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.

\* \* \* \*

**FOUR:** This Amended and Restated Certificate of Incorporation has been duly approved by the Board of Directors of the Corporation.

**FIVE:** This Amended and Restated Certificate of Incorporation was approved by the holders of the requisite number of shares of said corporation in accordance with Section 228 of the DGCL. This Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the DGCL by the stockholders of the Corporation.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF, UDEMY, INC.** has caused this Amended and Restated Certificate of Incorporation to be signed by its Chief Executive Officer this 9<sup>th</sup> day of November, 2020.

**UDEMY, INC.**

By: /s/ Gregg Coccari

Name: Gregg Coccari

Title: Chief Executive Officer

[Signature Page to Amended and Restated Certificate of Incorporation]



**CERTIFICATE OF AMENDMENT TO  
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF  
UDEMY, INC.**

The undersigned, Ken Hirschman, hereby certifies that:

1. He is the Secretary of Udemey, Inc., a Delaware Corporation (the “**Corporation**”).
2. The text of the final paragraph of Section D.5.(h)(i) of Article IV of the Corporation’s Amended and Restated Certificate of Incorporation is amended and restated in its entirety as follows:

Notwithstanding the provisions of this Section 5(h), (i) no adjustment to the Series A Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series A Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series A Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series A Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (ii) no adjustment to the Series A-1 Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series A-1 Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series A-1 Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series A-1 Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (iii) no adjustment to the Series B Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series B Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series B Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series B Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (iv) no adjustment to the Series C Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series C Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series C Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series C Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (v) no adjustment to the Series D Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series D Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series D Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series D Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale, (vi) no adjustment to the Series E Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series E Preferred Conversion Price then in effect, the holders of a majority of the outstanding shares of the Series E Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series E Preferred Conversion Price in connection with any such issuance

or sale, or deemed issuance or sale, and (vii) no adjustment to the Series F Preferred Conversion Price shall be made pursuant to this Section 5(h) if, on, before or after the date of an issuance or sale, or deemed issuance or sale, of Additional Shares of Common Stock for an Effective Price less than the Series F Preferred Conversion Price then in effect, the holders of at least 80% of the outstanding shares of the Series F Preferred, voting or consenting as a separate class, waive the application of this Section 5(h) to the Series F Preferred Conversion Price in connection with any such issuance or sale, or deemed issuance or sale. Notwithstanding anything to the contrary herein, any waiver of any anti-dilution adjustments contemplated by this paragraph can be made retroactively with respect to the applicable Series Preferred Conversion Price regardless of when any such Qualifying Dilutive Issuance was made, including, for the avoidance of doubt, a Qualifying Dilutive Issuance that occurred prior to the Series F Original Issue Date.

3. The foregoing amendment was duly approved by the Corporation's Board of Directors in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

4. The stockholders of the Corporation approved said amendment by written consent in accordance with Section 228 and 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, this Corporation has caused this Certificate of Amendment to be signed by Ken Hirschman, its duly authorized Secretary, this 25th day of October, 2021.

UDEMY, INC.,  
a Delaware corporation

By: /s/ Ken Hirschman  
Ken Hirschman  
Secretary

## UDEMY, INC.

## 2021 EMPLOYEE STOCK PURCHASE PLAN

Adopted September 15, 2021

Approved by stockholders September 24, 2021

Amended and restated October 21, 2021

**1. Purpose.** The purpose of the Plan is to provide employees of the Company and its Designated Companies with an opportunity to purchase Common Stock through accumulated Contributions. The Company intends for the Plan to have two components: a component that is intended to qualify as an “employee stock purchase plan” under Section 423 of the Code (the “**423 Component**”) and a component that is not intended to qualify as an “employee stock purchase plan” under Section 423 of the Code (the “**Non-423 Component**”). The provisions of the 423 Component, accordingly, will be construed so as to extend and limit Plan participation in a uniform and nondiscriminatory basis consistent with the requirements of Section 423 of the Code. An option to purchase shares of Common Stock under the Non-423 Component will be granted pursuant to rules, procedures, or sub-plans adopted by the Administrator designed to achieve tax, securities laws, or other objectives for Eligible Employees and the Company. Except as otherwise provided herein, the Non-423 Component will operate and be administered in the same manner as the 423 Component.

**2. Definitions.**

(a) “**Administrator**” means the Board or any Committee designated by the Board to administer the Plan pursuant to Section 14.

(b) “**Affiliate**” means any entity, other than a Subsidiary, in which the Company has an equity or other ownership interest.

(c) “**Applicable Laws**” means the requirements relating to the administration of equity-based awards under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any foreign country or jurisdiction where options are, or will be, granted under the Plan.

(d) “**Board**” means the Board of Directors of the Company.

(e) “**Change in Control**” means the occurrence of any of the following events:

(i) A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group (“**Person**”), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than fifty percent (50%) of the total voting power of the stock of the Company; provided, however, that for purposes of this subsection, the acquisition of additional stock by any one Person, who is considered to own more than fifty percent (50%) of the total voting power of the stock of the Company will not be considered a Change in Control. Further, if the stockholders of the Company immediately before such

change in ownership continue to retain immediately after the change in ownership, in substantially the same proportions as their ownership of shares of the Company's voting stock immediately prior to the change in ownership, direct or indirect beneficial ownership of fifty percent (50%) or more of the total voting power of the stock of the Company or of the ultimate parent entity of the Company, such event shall not be considered a Change in Control under this subsection (i). For this purpose, indirect beneficial ownership shall include, without limitation, an interest resulting from ownership of the voting securities of one or more corporations or other business entities which own the Company, as the case may be, either directly or through one or more subsidiary corporations or other business entities; or

(ii) A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12)-month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this subsection (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12)-month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection, the following will not constitute a change in the ownership of a substantial portion of the Company's assets: (A) a transfer to an entity that is controlled by the Company's stockholders immediately after the transfer, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock, (2) an entity, fifty percent (50%) or more of the total value or voting power of which is owned, directly or indirectly, by the Company, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the total value or voting power of all the outstanding stock of the Company, or (4) an entity, at least fifty percent (50%) of the total value or voting power of which is owned, directly or indirectly, by a Person described in this subsection (iii)(B)(3). For purposes of this subsection, gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

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

Notwithstanding the foregoing, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Code Section 409A, as it has been and may be amended from time to time, and any proposed or final U.S. Treasury Regulations and Internal Revenue Service guidance that has been promulgated or may be promulgated thereunder from time to time.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (i) its sole purpose is to change the jurisdiction of the Company's incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(f) "**Code**" means the U.S. Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code will include such section or regulation, any valid regulation or other official applicable guidance promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(g) "**Committee**" means a committee of the Board appointed in accordance with Section 14 hereof.

(h) "**Common Stock**" means the common stock of the Company.

(i) "**Company**" means Udemy, Inc., a Delaware corporation, or any successor thereto.

(j) "**Compensation**" includes an Eligible Employee's base straight time gross earnings and cash-based bonuses and commissions, but excludes payments for overtime and shift premium, equity compensation income and other similar compensation. The Administrator, in its discretion, may, on a uniform and nondiscriminatory basis, establish a different definition of Compensation for a subsequent Offering Period.

(k) "**Contributions**" means the payroll deductions and other additional payments that the Company may permit to be made by a Participant to fund the exercise of options granted pursuant to the Plan.

(l) "**Designated Company**" means any Subsidiary or Affiliate of the Company that has been designated by the Administrator from time to time in its sole discretion as eligible to participate in the Plan. For purposes of the 423 Component, only the Company and its Subsidiaries may be Designated Companies, provided, however that at any given time, a Subsidiary that is a Designated Company under the 423 Component will not be a Designated Company under the Non-423 Component.

(m) "**Director**" means a member of the Board.

(n) “**Eligible Employee**” means any individual who is a common law employee providing services to the Company or a Designated Company and is customarily employed for at least twenty (20) hours per week and more than five (5) months in any calendar year by the Employer, or any lesser number of hours per week and/or number of months in any calendar year established by the Administrator (if required under applicable local law) for purposes of any separate Offering or the Non-423 Component. For purposes of the Plan, the employment relationship will be treated as continuing intact while the individual is on sick leave or other leave of absence that the Employer approves or is legally protected under Applicable Laws. Where the period of leave exceeds three (3) months and the individual’s right to reemployment is not guaranteed either by statute or by contract, the employment relationship will be deemed to have terminated three (3) months and one (1) day following the commencement of such leave. The Administrator, in its discretion, from time to time may, prior to an Enrollment Date for all options to be granted on such Enrollment Date in an Offering, determine (for each Offering under the 423 Component, on a uniform and nondiscriminatory basis or as otherwise permitted by Treasury Regulation Section 1.423-2) that the definition of Eligible Employee will or will not include an individual if he or she: (i) has not completed at least two (2) years of service since his or her last hire date (or such lesser period of time as may be determined by the Administrator in its discretion), (ii) customarily works not more than twenty (20) hours per week (or such lesser period of time as may be determined by the Administrator in its discretion), (iii) customarily works not more than five (5) months per calendar year (or such lesser period of time as may be determined by the Administrator in its discretion), (iv) is a highly compensated employee within the meaning of Section 414(q) of the Code, or (v) is a highly compensated employee within the meaning of Section 414(q) of the Code with compensation above a certain level or is an officer or subject to the disclosure requirements of Section 16(a) of the Exchange Act, provided the exclusion is applied with respect to each Offering under the 423 Component in an identical manner to all highly compensated individuals of the Employer whose Eligible Employees are participating in that Offering under the 423 Component. Each exclusion will be applied with respect to an Offering in a manner complying with U.S. Treasury Regulation Section 1.423-2(e)(2)(ii). Such exclusions may be applied with respect to an Offering under the Non- 423 Component without regard to the limitations of Treasury Regulation Section 1.423-2.

(o) “**Employer**” means the employer of the applicable Eligible Employee(s).

(p) “**Enrollment Date**” means the first Trading Day of an Offering Period.

(q) “**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended, including the rules and regulations promulgated thereunder.

(r) “**Exercise Date**” means the first Trading Day on or after May 20 and November 20 of each Purchase Period. Notwithstanding the foregoing, (i) the first Exercise Date of the first Offering Period will be May 20, 2022, and (ii) in the event that an Offering Period is terminated prior to its expiration pursuant to Section 20(a), the Administrator, in its sole discretion, may determine that any Purchase Period also terminating under such Offering Period will terminate without options being exercised on the Exercise Date that otherwise would have occurred on the last Trading Day of such Purchase Period.

(s) “**Fair Market Value**” means, as of any date, the value of a share of Common Stock determined as follows:

(i) For purposes of the Enrollment Date of the first Offering Period under the Plan, the Fair Market Value will be the initial price to the public as set forth in the final prospectus included within the Registration Statement; or

(ii) For all other purposes, the Fair Market Value will be the closing sales price for Common Stock as quoted on any established stock exchange or national market system (including without limitation the New York Stock Exchange, NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market of The NASDAQ Stock Market) on which the Common Stock is listed on the date of determination (or the closing bid, if no sales were reported), as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable. If the determination date for the Fair Market Value occurs on a non-trading day (*i.e.*, a weekend or holiday), the Fair Market Value will be such price on the immediately preceding trading day, unless otherwise determined by the Administrator. In the absence of an established market for the Common Stock, the Fair Market Value thereof will be determined in good faith by the Administrator.

The determination of fair market value for purposes of tax withholding may be made in the Administrator’s discretion subject to Applicable Laws and is not required to be consistent with the determination of Fair Market Value for other purposes.

(t) “**Fiscal Year**” means a fiscal year of the Company.

(u) “**New Exercise Date**” means a new Exercise Date if the Administrator shortens any Offering Period then in progress.

(v) “**Offering**” means an offer under the Plan of an option that may be exercised during an Offering Period as further described in Section 4. For purposes of the Plan, the Administrator may designate separate Offerings under the Plan (the terms of which need not be identical) in which Eligible Employees of one or more Employers will participate, even if the dates of the applicable Offering Periods of each such Offering are identical and the provisions of the Plan will separately apply to each Offering. To the extent permitted by U.S. Treasury Regulation Section 1.423-2(a)(1), the terms of each Offering need not be identical provided that the terms of the Plan and an Offering together satisfy U.S. Treasury Regulation Section 1.423-2(a)(2) and (a)(3).

(w) “**Offering Periods**” means the periods of approximately twenty four (24) months during which an option granted pursuant to the Plan may be exercised, commencing on the first Trading Day on or after May 20 and November 20 of each year and terminating on the last Trading Day on or before May 20 and November 20, approximately twenty four (24) months later; provided, however, that the first Offering Period under the Plan will commence with the first Trading Day on or after the date on which the Securities and Exchange Commission declares the Company’s Registration Statement effective and will end on the last Trading Day on or before November 20, 2023, and provided, further, that the second Offering Period under the Plan will commence on the first Trading Day on or after May 20, 2022. The duration and timing of Offering Periods may be changed pursuant to Sections 4, 20, and 30.

(x) “**Parent**” means a “parent corporation,” whether now or hereafter existing, as defined in Section 424(e) of the Code.

(y) “**Participant**” means an Eligible Employee that participates in the Plan.

(z) “**Plan**” means this Udemy, Inc. 2021 Employee Stock Purchase Plan.

(aa) “**Purchase Period**” means the periods during an Offering Period during which shares of Common Stock may be purchased on a Participant’s behalf in accordance with the terms of the Plan. Unless the Administrator provides otherwise, the Purchase Period shall mean the approximately six (6)-month period commencing on one Exercise Date and ending with the next Exercise Date, except that the first Purchase Period of any Offering Period shall commence on the Enrollment Date and end with the next Exercise Date.

(bb) “**Purchase Price**” means an amount equal to eighty-five percent (85%) of the Fair Market Value on the Enrollment Date or on the Exercise Date, whichever is lower; *provided, however*, that the Purchase Price may be determined for subsequent Offering Periods by the Administrator subject to compliance with Section 423 of the Code (or any successor rule or provision or any other Applicable Law, regulation or stock exchange rule) or pursuant to Section 20.

(cc) “**Registration Date**” means the effective date of the Registration Statement.

(dd) “**Registration Statement**” means the registration statement on Form S-1 filed with the Securities and Exchange Commission for the initial public offering of the Common Stock.

(ee) “**Subsidiary**” means a “subsidiary corporation,” whether now or hereafter existing, as defined in Section 424(f) of the Code.

(ff) “**Trading Day**” means a day on which the national stock exchange upon which the Common Stock is listed is open for trading.

(gg) “**U.S. Treasury Regulations**” means the Treasury regulations of the Code. Reference to a specific Treasury Regulation will include such Treasury Regulation, the section of the Code under which such regulation was promulgated, and any comparable provision of any future legislation or regulation amending, supplementing, or superseding such Section or regulation.



### 3. Eligibility.

(a) First Offering Period. Any individual who is an Eligible Employee immediately prior to the first Offering Period will be automatically enrolled in the first Offering Period.

(b) Subsequent Offering Periods. Any Eligible Employee on a given Enrollment Date subsequent to the first Offering Period will be eligible to participate in the Plan, subject to the requirements of Section 5.

(c) Non-U.S. Employees. Eligible Employees who are citizens or residents of a non-U.S. jurisdiction (without regard to whether they also are citizens or residents of the United States or resident aliens (within the meaning of Section 7701(b)(1)(A) of the Code)) may be excluded from participation in the Plan or an Offering if the participation of such Eligible Employees is prohibited under the laws of the applicable jurisdiction or if complying with the laws of the applicable jurisdiction would cause the Plan or an Offering to violate Section 423 of the Code. In the case of the Non-423 Component, Eligible Employees may be excluded from participation in the Plan or an Offering if the Administrator determines that participation of such Eligible Employees is not advisable or practicable.

(d) Limitations. Any provisions of the Plan to the contrary notwithstanding, no Eligible Employee will be granted an option under the Plan (i) to the extent that, immediately after the grant, such Eligible Employee (or any other person whose stock would be attributed to such Eligible Employee pursuant to Section 424(d) of the Code) would own capital stock of the Company or any Parent or Subsidiary of the Company and/or hold outstanding options to purchase such stock possessing five percent (5%) or more of the total combined voting power or value of all classes of the capital stock of the Company or of any Parent or Subsidiary of the Company, or (ii) to the extent that his or her rights to purchase stock under all employee stock purchase plans (as defined in Section 423 of the Code) of the Company or any Parent or Subsidiary of the Company accrues at a rate, which exceeds twenty-five thousand dollars (\$25,000) worth of stock (determined at the Fair Market Value of the stock at the time such option is granted) for each calendar year in which such option is outstanding at any time, as determined in accordance with Section 423 of the Code and the regulations thereunder.

**4. Offering Periods.** The Plan will be implemented by overlapping Offering Periods with a new Offering Period commencing on the first Trading Day on or after May 20 and November 20 each year, or on such other dates as the Administrator will determine; *provided, however*, that the first Offering Period under the Plan will commence with the first Trading Day on or after the Registration Date and end on the last Trading Day on or before November 20, 2023, and provided, further, that the second Offering Period under the Plan will commence on the first Trading Day on or after May 20, 2022. The Administrator will have the power to change the duration of Offering Periods (including the commencement dates thereof) with respect to future Offerings without stockholder approval if such change is announced prior to the scheduled beginning of the first Offering Period to be affected thereafter; *provided, however*, that no Offering Period may last more than twenty-seven (27) months.

## 5. Participation.

(a) First Offering Period. An Eligible Employee will be entitled to continue to participate in the first Offering Period pursuant to Section 3(a) only if such individual submits a subscription agreement authorizing Contributions in a form determined by the Administrator (which may be similar to the form attached hereto as Exhibit A) to the Company's designated plan administrator (i) no earlier than the effective date of the Form S-8 registration statement with respect to the issuance of Common Stock under this Plan and (ii) no later than fifteen (15) business days following the effective date of such S-8 registration statement or such date as the Administrator may determine (the "**Enrollment Window**"). An Eligible Employee's failure to submit the subscription agreement during the Enrollment Window will result in the automatic termination of such individual's participation in the first Offering Period.

(b) Subsequent Offering Periods. An Eligible Employee may participate in the Plan pursuant to Section 3(b) by (i) submitting to the Company's stock administration office (or its designee) a properly completed subscription agreement authorizing Contributions in the form provided by the Administrator for such purpose or (ii) following an electronic or other enrollment procedure determined by the Administrator, in either case on or before a date determined by the Administrator prior to an applicable Enrollment Date.

## 6. Contributions.

(a) At the time a Participant enrolls in the Plan pursuant to Section 5, he or she will elect to have Contributions (in the form of payroll deductions or otherwise, to the extent permitted by the Administrator) made on each pay day during the Offering Period in an amount not exceeding fifteen percent (15%) of the Compensation that he or she receives on the pay day (provided that, should a pay day occur on an Exercise Date, a Participant will have any Contributions made on such day applied to his or her account under the immediately following Purchase Period or Offering Period, as applicable). The Administrator, in its sole discretion, may permit all Participants in a specified Offering to contribute amounts to the Plan through payment by cash, check, or other means set forth in the subscription agreement prior to each Exercise Date of each Purchase Period. A Participant's subscription agreement will remain in effect for successive Offering Periods unless terminated as provided in Section 10 hereof.

(b) In the event Contributions are made in the form of payroll deductions, such payroll deductions for a Participant will commence on the first pay day following the Enrollment Date and will end on the last pay day on or prior to the last Exercise Date of such Offering Period to which such authorization is applicable, unless sooner terminated by the Participant as provided in Section 10 hereof; *provided, however*, that for the first Offering Period, payroll deductions will commence on the first pay day on or following the end of the Enrollment Window.

(c) All Contributions made for a Participant will be credited to his or her account under the Plan and Contributions will be made in whole percentages of his or her Compensation only. A Participant may not make any additional payments into such account.

(d) A Participant may discontinue his or her participation in the Plan as provided under Section 10. Unless otherwise determined by the Administrator, during an Offering Period, a Participant may not increase the rate of his or her Contributions, and during a Purchase Period, may only decrease the rate of his or her Contributions one (1) time to a Contribution rate that is less than the Participant's original Contribution Rate in effect at the commencement of the applicable Offering Period. Any such decrease during a Purchase Period requires the Participant (i) properly completing and submitting to the Company's stock administration office (or its designee) a new subscription agreement authorizing the change in Contribution rate in the form provided by the Administrator for such purpose or (ii) following an electronic or other procedure prescribed by the Administrator, in either case on or before a date determined by the Administrator prior to an applicable Exercise Date. If a Participant has not followed such procedures to change the rate of Contributions, the rate of his or her Contributions will continue at the originally elected rate throughout the Purchase Period and future Offering Periods and Purchase Periods (unless the Participant's participation is terminated as provided in Sections 10 or 11). The Administrator may, in its sole discretion, amend the nature and/or number of Contribution rate changes that may be made by Participants during any Offering Period or Purchase Period and may establish other conditions or limitations as it deems appropriate for Plan administration. Any change in the rate of Contributions made pursuant to this Section 6(d) will be effective as of the first (1<sup>st</sup>) full payroll period following five (5) business days after the date on which the change is made by the Participant (unless the Administrator, in its sole discretion, elects to process a given change in payroll deduction rate more quickly).

(e) Notwithstanding the foregoing, to the extent necessary to comply with Section 423(b)(8) of the Code and Section 3(d), a Participant's Contributions may be decreased to zero percent (0%) at any time during a Purchase Period. Subject to Section 423(b)(8) of the Code and Section 3(d) hereof, Contributions will recommence at the rate originally elected by the Participant effective as of the beginning of the first Purchase Period scheduled to end in the following calendar year, unless terminated by the Participant as provided in Section 10.

(f) Notwithstanding any provisions to the contrary in the Plan, the Administrator may allow Participants to participate in the Plan via cash contributions instead of payroll deductions if (i) payroll deductions are not permitted under applicable local law, (ii) the Administrator determines that cash contributions are permissible under Section 423 of the Code, or (iii) the Participants are participating in the Non-423 Component.

(g) At the time the option is exercised, in whole or in part, or at the time some or all of the Common Stock issued under the Plan is disposed of (or any other time that a taxable event related to the Plan occurs), the Participant must make adequate provision for the Company's or Employer's federal, state, local, or any other tax liability payable to any authority including taxes imposed by jurisdictions outside of the U.S., national insurance, social security, or other tax withholding obligations, if any, which arise upon the exercise of the option or the disposition of the Common Stock (or any other time that a taxable event related to the Plan occurs). At any time, the Company or the Employer may, but will not be obligated to, withhold

from the Participant's compensation the amount necessary for the Company or the Employer to meet applicable withholding obligations, including any withholding required to make available to the Company or the Employer any tax deductions or benefits attributable to sale or early disposition of Common Stock by the Eligible Employee. In addition, the Company or the Employer may, but will not be obligated to, withhold from the proceeds of the sale of Common Stock or any other method of withholding the Company or the Employer deems appropriate to the extent permitted by U.S. Treasury Regulation Section 1.423-2(f).

**7. Grant of Option.** On the Enrollment Date of each Offering Period, each Eligible Employee participating in such Offering Period will be granted an option to purchase on each Exercise Date during such Offering Period (at the applicable Purchase Price) up to a number of shares of Common Stock determined by dividing such Eligible Employee's Contributions accumulated prior to such Exercise Date and retained in the Eligible Employee's account as of the Exercise Date by the applicable Purchase Price; provided that in no event will an Eligible Employee be permitted to purchase during each Purchase Period more than 5,000 shares of Common Stock (subject to any adjustment pursuant to Section 19) and provided further that such purchase will be subject to the limitations set forth in Sections 3(d) and 13. The Eligible Employee may accept the grant of such option (i) with respect to the first Offering Period by submitting a properly completed subscription agreement in accordance with the requirements of Section 5 on or before the last day of the Enrollment Window, and (ii) with respect to any subsequent Offering Period under the Plan, by electing to participate in the Plan in accordance with the requirements of Section 5. The Administrator may, for future Offering Periods, increase or decrease, in its absolute discretion, the maximum number of shares of Common Stock that an Eligible Employee may purchase during each Purchase Period. Exercise of the option will occur as provided in Section 8, unless the Participant has withdrawn pursuant to Section 10. The option will expire on the last day of the Offering Period.

**8. Exercise of Option.**

(a) Unless a Participant withdraws from the Plan as provided in Section 10, his or her option for the purchase of shares of Common Stock will be exercised automatically on each Exercise Date, and the maximum number of full shares subject to the option will be purchased for such Participant at the applicable Purchase Price with the accumulated Contributions from his or her account. No fractional shares of Common Stock will be purchased; any Contributions accumulated in a Participant's account which are not sufficient to purchase a full share will be retained in the Participant's account for the subsequent Purchase Period or Offering Period, subject to earlier withdrawal by the Participant as provided in Section 10. Any other funds left over in a Participant's account after the Exercise Date will be returned to the Participant. During a Participant's lifetime, a Participant's option to purchase shares hereunder is exercisable only by him or her.

(b) If the Administrator determines that, on a given Exercise Date, the number of shares of Common Stock with respect to which options are to be exercised may exceed (i) the number of shares of Common Stock that were available for sale under the Plan on the Enrollment Date of the applicable Offering Period, or (ii) the number of shares of Common Stock available for sale under the Plan on such Exercise Date, the Administrator may in its sole discretion (x) provide that the Company will make a pro rata allocation of the shares of Common Stock available for purchase on such Enrollment Date or Exercise Date, as applicable, in as uniform a manner as will be practicable and as it will determine in its sole discretion to be equitable among all Participants exercising options to purchase Common Stock on such Exercise Date, and continue all Offering Periods then in effect or (y) provide that the Company will make a pro rata allocation of the shares of Common Stock available for purchase on such Enrollment Date or Exercise Date, as applicable, in as uniform a manner as will be practicable and as it will determine in its sole discretion to be equitable among all participants exercising options to purchase Common Stock on such Exercise Date, and terminate any or all Offering Periods then in effect pursuant to Section 20. The Company may make a pro rata allocation of the shares available on the Enrollment Date of any applicable Offering Period pursuant to the preceding sentence, notwithstanding any authorization of additional shares for issuance under the Plan by the Company's stockholders subsequent to such Enrollment Date.

**9. Delivery.** As soon as reasonably practicable after each Exercise Date on which a purchase of shares of Common Stock occurs, the Company will arrange the delivery to each Participant of the shares purchased upon exercise of his or her option in a form determined by the Administrator (in its sole discretion) and pursuant to rules established by the Administrator. The Company may permit or require that shares be deposited directly with a broker designated by the Company or to a designated agent of the Company, and the Company may utilize electronic or automated methods of share transfer. The Company may require that shares be retained with such broker or agent for a designated period of time and/or may establish other procedures to permit tracking of disqualifying dispositions of such shares. No Participant will have any voting, dividend, or other stockholder rights with respect to shares of Common Stock subject to any option granted under the Plan until such shares have been purchased and delivered to the Participant as provided in this Section 9.

#### **10. Withdrawal.**

(a) A Participant may withdraw all but not less than all the Contributions credited to his or her account and not yet used to exercise his or her option under the Plan at any time by (i) submitting to the Company's stock administration office (or its designee) a written notice of withdrawal in the form determined by the Administrator for such purpose (which may be similar to the form attached hereto as Exhibit B), or (ii) following an electronic or other withdrawal procedure determined by the Administrator. The Administrator may set forth a deadline of when a withdrawal must occur to be effective prior to a given Exercise Date in accordance with policies it may approve from time to time. All of the Participant's Contributions credited to his or her account will be paid to such Participant promptly after receipt of notice of withdrawal and such Participant's option for the Offering Period will be automatically terminated, and no further Contributions for the purchase of shares will be made for such Offering Period. If a Participant withdraws from an Offering Period, Contributions will not resume at the beginning of the succeeding Offering Period unless the Participant re-enrolls in the Plan in accordance with the provisions of Section 5.

(b) A Participant's withdrawal from an Offering Period will not have any effect on his or her eligibility to participate in any similar plan that may hereafter be adopted by the Company or in succeeding Offering Periods that commence after the termination of the Offering Period from which the Participant withdraws.

**11. Termination of Employment.** Upon a Participant's ceasing to be an Eligible Employee for any reason, he or she will be deemed to have elected to withdraw from the Plan and the Contributions credited to such Participant's account during the Offering Period but not yet used to purchase shares of Common Stock under the Plan will be returned to such Participant or, in the case of his or her death, to the person or persons entitled thereto under Section 15, and such Participant's option will be automatically terminated. Unless otherwise provided by the Administrator, a Participant whose employment transfers between entities through a termination with an immediate rehire (with no break in service) by the Company or a Designated Company will not be treated as terminated under the Plan; *however*, if a Participant transfers from an Offering under the 423 Component to the Non-423 Component, the exercise of the option will be qualified under the 423 Component only to the extent it complies with Section 423 of the Code, unless otherwise provided by the Administrator.

**12. Interest.** No interest will accrue on the Contributions of a participant in the Plan, except as may be required by Applicable Law, as determined by the Company, and if so required by the laws of a particular jurisdiction, will apply to all Participants in the relevant Offering under the 423 Component, except to the extent otherwise permitted by U.S. Treasury Regulation Section 1.423-2(f).

**13. Stock.** Subject to adjustment upon changes in capitalization of the Company as provided in Section 19 hereof, the maximum number of shares of Common Stock that will be made available for sale under the Plan will be 2,800,000 shares of Common Stock. The number of shares of Common Stock available for issuance under the Plan will be increased on the first day of each Fiscal Year beginning with the 2023 Fiscal Year equal to the least of (i) one percent (1%) of the outstanding shares of Common Stock on the last day of the immediately preceding Fiscal Year, (ii) three (3) times the initial number of shares reserved under the Plan as set forth in the immediately preceding sentence, or (iii) a lesser amount determined by the Administrator. Until the shares of Common Stock are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), a Participant will have only the rights of an unsecured creditor with respect to such shares, and no right to vote or receive dividends or any other rights as a stockholder will exist with respect to such shares. Shares of Common Stock to be delivered to a Participant under the Plan will be registered in the name of the Participant or in the name of the Participant and his or her spouse.

**14. Administration.** The Plan will be administered by the Board or a Committee appointed by the Board, which Committee will be constituted to comply with Applicable Laws. The Administrator will have full and exclusive discretionary authority to construe, interpret and apply the terms of the Plan, to delegate ministerial duties to any of the Company's employees, to designate separate Offerings under the Plan, to designate Subsidiaries and Affiliates of the Company as participating in the 423 Component or Non-423 Component, to determine

eligibility, to adjudicate all disputed claims filed under the Plan and to establish such procedures that it deems necessary for the administration of the Plan (including, without limitation, to adopt such procedures and sub-plans as are necessary or appropriate to permit the participation in the Plan by employees who are foreign nationals or employed outside the U.S., the terms of which sub-plans may take precedence over other provisions of this Plan, with the exception of Section 13 hereof, but unless otherwise superseded by the terms of such sub-plan, the provisions of this Plan will govern the operation of such sub-plan). Unless otherwise determined by the Administrator, the Eligible Employees eligible to participate in each sub-plan will participate in a separate Offering or in the Non-423 Component. Without limiting the generality of the foregoing, the Administrator is specifically authorized to adopt rules and procedures regarding eligibility to participate, the definition of Compensation, handling of Contributions, making of Contributions to the Plan (including, without limitation, in forms other than payroll deductions), establishment of bank or trust accounts to hold Contributions, payment of interest, conversion of local currency, obligations to pay payroll tax, determination of beneficiary designation requirements, withholding procedures and handling of stock certificates that vary with applicable local requirements. The Administrator also is authorized to determine that, to the extent permitted by U.S. Treasury Regulation Section 1.423-2(f), the terms of an option granted under the Plan or an Offering to citizens or residents of a non-U.S. jurisdiction will be less favorable than the terms of options granted under the Plan or the same Offering to employees resident solely in the U.S. Every finding, decision, and determination made by the Administrator will, to the full extent permitted by law, be final and binding upon all parties.

#### **15. Designation of Beneficiary.**

(a) If permitted by the Administrator, a Participant may file a designation of a beneficiary who is to receive any shares of Common Stock and cash, if any, from the Participant's account under the Plan in the event of such Participant's death subsequent to an Exercise Date on which the option is exercised but prior to delivery to such Participant of such shares and cash. In addition, if permitted by the Administrator, a Participant may file a designation of a beneficiary who is to receive any cash from the Participant's account under the Plan in the event of such Participant's death prior to exercise of the option. If a Participant is married and the designated beneficiary is not the spouse, spousal consent will be required for such designation to be effective.

(b) Such designation of beneficiary may be changed by the Participant at any time by notice in a form determined by the Administrator. In the event of the death of a Participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such Participant's death, the Company will deliver such shares and/or cash to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such shares and/or cash to the spouse or to any one or more dependents or relatives of the Participant, or if no spouse, dependent or relative is known to the Company, then to such other person as the Company may designate.

(c) All beneficiary designations will be in such form and manner as the Administrator may designate from time to time. Notwithstanding Sections 15(a) and (b) above, the Company and/or the Administrator may decide not to permit such designations by Participants in non-U.S. jurisdictions to the extent permitted by U.S. Treasury Regulation Section 1.423-2(f).

**16. Transferability.** Neither Contributions credited to a Participant's account nor any rights with regard to the exercise of an option or to receive shares of Common Stock under the Plan may be assigned, transferred, pledged, or otherwise disposed of in any way (other than by will, the laws of descent and distribution or as provided in Section 15 hereof) by the Participant. Any such attempt at assignment, transfer, pledge, or other disposition will be without effect, except that the Company may treat such act as an election to withdraw funds from an Offering Period in accordance with Section 10 hereof.

**17. Use of Funds.** The Company may use all Contributions received or held by it under the Plan for any corporate purpose, and the Company will not be obligated to segregate such Contributions except under Offerings or for Participants in the Non-423 Component for which Applicable Laws require that Contributions to the Plan by Participants be segregated from the Company's general corporate funds and/or deposited with an independent third party. Until shares of Common Stock are issued, Participants will have only the rights of an unsecured creditor with respect to such shares.

**18. Reports.** Individual accounts will be maintained for each Participant in the Plan. Statements of account will be given to participating Eligible Employees at least annually, which statements will set forth the amounts of Contributions, the Purchase Price, the number of shares of Common Stock purchased, and the remaining cash balance, if any.

**19. Adjustments, Dissolution, Liquidation, Merger, or Change in Control.**

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Common Stock, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Common Stock or other securities of the Company, or other change in the corporate structure of the Company affecting the Common Stock occurs, the Administrator, in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, will, in such manner as it may deem equitable, adjust the number and class of Common Stock that may be delivered under the Plan, the Purchase Price per share and the number of shares of Common Stock covered by each option under the Plan that has not yet been exercised, and the numerical limits of Sections 7 and 13.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, any Offering Period then in progress will be shortened by setting a New Exercise Date and will terminate immediately prior to the consummation of such proposed dissolution or liquidation, unless provided otherwise by the Administrator. The New Exercise Date will be before the date of the Company's proposed dissolution or liquidation. The



Administrator will notify each Participant in writing or electronically, prior to the New Exercise Date, that the Exercise Date for the Participant's option has been changed to the New Exercise Date and that the Participant's option will be exercised automatically on the New Exercise Date, unless prior to such date the Participant has withdrawn from the Offering Period as provided in Section 10 hereof.

(c) Merger or Change in Control. In the event of a merger or Change in Control, each outstanding option will be assumed or an equivalent option substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation refuses to assume or substitute for the option, the Offering Period with respect to which such option relates will be shortened by setting a New Exercise Date on which such Offering Period will end. The New Exercise Date will occur before the date of the Company's proposed merger or Change in Control. The Administrator will notify each Participant in writing or electronically prior to the New Exercise Date that the Exercise Date for the Participant's option has been changed to the New Exercise Date and that the Participant's option will be exercised automatically on the New Exercise Date, unless prior to such date the Participant has withdrawn from the Offering Period as provided in Section 10 hereof.

## **20. Amendment or Termination.**

(a) The Administrator, in its sole discretion, may amend, suspend, or terminate the Plan, or any part thereof, at any time and for any reason. If the Plan is terminated, the Administrator, in its discretion, may elect to terminate all outstanding Offering Periods either immediately or upon completion of the purchase of shares of Common Stock on the next Exercise Date (which may be sooner than originally scheduled, if determined by the Administrator in its discretion), or may elect to permit Offering Periods to expire in accordance with their terms (and subject to any adjustment pursuant to Section 19). If the Offering Periods are terminated prior to expiration, all amounts then credited to Participants' accounts that have not been used to purchase shares of Common Stock will be returned to the Participants (without interest thereon, except as otherwise required under Applicable Laws, as further set forth in Section 12 hereof) as soon as administratively practicable.

(b) Without stockholder consent and without limiting Section 20(a), the Administrator will be entitled to change the Offering Periods or Purchase Periods, designate separate Offerings, limit the frequency and/or number of changes in the amount withheld during an Offering Period, establish the exchange ratio applicable to amounts withheld in a currency other than U.S. dollars, permit Contributions in excess of the amount designated by a Participant in order to adjust for delays or mistakes in the Company's processing of properly completed Contribution elections, establish reasonable waiting and adjustment periods and/or accounting and crediting procedures to ensure that amounts applied toward the purchase of Common Stock for each Participant properly correspond with Contribution amounts, and establish such other limitations or procedures as the Administrator determines in its sole discretion advisable that are consistent with the Plan.

(c) In the event the Administrator determines that the ongoing operation of the Plan may result in unfavorable financial accounting consequences, the Administrator may, in its discretion and, to the extent necessary or desirable, modify, amend, or terminate the Plan to reduce or eliminate such accounting consequence including, but not limited to:

- (i) amending the Plan to conform with the safe harbor definition under the Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor thereto), including with respect to an Offering Period underway at the time;
- (ii) altering the Purchase Price for any Offering Period or Purchase Period including an Offering Period or Purchase Period underway at the time of the change in Purchase Price;
- (iii) shortening any Offering Period or Purchase Period by setting a New Exercise Date, including an Offering Period or Purchase Period underway at the time of the Administrator action;
- (iv) reducing the maximum percentage of Compensation a Participant may elect to set aside as Contributions; and
- (v) reducing the maximum number of shares of Common Stock a Participant may purchase during any Offering Period or Purchase Period.

Such modifications or amendments will not require stockholder approval or the consent of any Participant.

**21. Notices.** All notices or other communications by a Participant to the Company under or in connection with the Plan will be deemed to have been duly given when received in the form and manner specified by the Company at the location, or by the person, designated by the Company for the receipt thereof.

**22. Conditions Upon Issuance of Shares.** Shares of Common Stock will not be issued with respect to an option unless the exercise of such option and the issuance and delivery of such shares pursuant thereto will comply with all applicable provisions of law, domestic or foreign, including, without limitation, the U.S. Securities Act of 1933, as amended, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange upon which the shares may then be listed, and will be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an option, the Company may require the person exercising such option to represent and warrant at the time of any such exercise that the shares are being purchased only for investment and without any present intention to sell or distribute such shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned applicable provisions of law.

**23. Code Section 409A.** The 423 Component of the Plan is exempt from the application of Code Section 409A and any ambiguities herein will be interpreted to so be exempt from Code Section 409A. In furtherance of the foregoing and notwithstanding any provision in the Plan to the contrary, if the Administrator determines that an option granted under the Plan may be subject to Code Section 409A or that any provision in the Plan would cause an option under the Plan to be subject to Code Section 409A, the Administrator may amend the terms of the Plan and/or of an outstanding option granted under the Plan, or take such other action the Administrator determines is necessary or appropriate, in each case, without the Participant's consent, to exempt any outstanding option or future option that may be granted under the Plan from or to allow any such options to comply with Code Section 409A, but only to the extent any such amendments or action by the Administrator would not violate Code Section 409A. Notwithstanding the foregoing, the Company and any Parent, Subsidiary or Affiliate will have no liability to a Participant or any other party if the option to purchase Common Stock under the Plan that is intended to be exempt from or compliant with Code Section 409A is not so exempt or compliant or for any action taken by the Administrator with respect thereto. The Company makes no representation that the option to purchase Common Stock under the Plan is compliant with Code Section 409A.

**24. Term of Plan.** The Plan will become effective upon the later to occur of (i) its adoption by the Board or (ii) the business day immediately prior to the Registration Date. It will continue in effect for a term of twenty (20) years, unless sooner terminated under Section 20.

**25. Stockholder Approval.** The Plan will be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

**26. Governing Law.** The Plan will be governed by, and construed in accordance with, the laws of the State of Delaware (except its choice-of-law provisions).

**27. No Right to Employment.** Participation in the Plan by a Participant will not be construed as giving a Participant the right to be retained as an employee of the Company or a Subsidiary or Affiliate of the Company, as applicable. Further, the Company or a Subsidiary or Affiliate of the Company may dismiss a Participant from employment at any time, free from any liability or any claim under the Plan.

**28. Severability.** If any provision of the Plan is or becomes or is deemed to be invalid, illegal, or unenforceable for any reason in any jurisdiction or as to any Participant, such invalidity, illegality, or unenforceability will not affect the remaining parts of the Plan, and the Plan will be construed and enforced as to such jurisdiction or Participant as if the invalid, illegal or unenforceable provision had not been included.

**29. Compliance with Applicable Laws.** The terms of this Plan are intended to comply with all Applicable Laws and will be construed accordingly.

**30. Automatic Transfer to Low Price Offering Period.** To the extent permitted by Applicable Laws, if the Fair Market Value on any Exercise Date in an Offering Period is lower than the Fair Market Value on the Enrollment Date of such Offering Period, then all Participants in such Offering Period automatically will be withdrawn from such Offering Period immediately after the exercise of their option on such Exercise Date and automatically re-enrolled in the immediately following Offering Period as of the first day thereof.

EXHIBIT A

UDEMYY, INC.

2021 EMPLOYEE STOCK PURCHASE PLAN

SUBSCRIPTION AGREEMENT

\_\_\_\_ Original Application  
\_\_\_\_ Change in Payroll Deduction Rate

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

1. \_\_\_\_\_ (“**Employee**”) hereby elects to participate in the Udemyy, Inc. 2021 Employee Stock Purchase Plan (the “**Plan**”) and subscribes to purchase shares of the Company’s Common Stock in accordance with this Subscription Agreement and the Plan. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Subscription Agreement.

2. Employee hereby authorizes payroll deductions from each paycheck in the amount of \_\_\_\_% (from zero percent (0%) to fifteen percent (15%) of his or her Compensation on each payday during the Offering Period in accordance with the Plan. (Please note that no fractional percentages are permitted.)

3. Employee understands that said payroll deductions will be accumulated for the purchase of shares of Common Stock at the applicable Purchase Price determined in accordance with the Plan. Employee understands that if he or she does not withdraw from an Offering Period, any accumulated payroll deductions will be used to automatically exercise his or her option and purchase Common Stock under the Plan.

4. Employee has received a copy of the complete Plan and its accompanying prospectus. Employee understands that his or her participation in the Plan is in all respects subject to the terms of the Plan.

5. Shares of Common Stock purchased by Employee under the Plan should be issued in the name(s) of \_\_\_\_\_ (Employee or Employee and Spouse only).

6. If Employee is a U.S. taxpayer, Employee understands that if he or she disposes of any shares that he or she purchased under the Plan within two (2) years after the Enrollment Date (the first day of the Offering Period during which he or she purchased such shares) or one (1) year after the applicable Exercise Date, he or she will be treated for U.S. federal income tax purposes as having received ordinary income at the time of such disposition in an amount equal to the excess of the fair market value of the shares at the time such shares were purchased over the price paid for the shares. Employee hereby agrees to notify the Company in writing within thirty (30) days after the date of any disposition of such shares and to make adequate provision for U.S. federal, state, or other tax withholding obligations, if any, that arise upon the disposition of such shares. The Company may, but will not be obligated to, withhold from Employee’s compensation the amount necessary to meet any applicable withholding obligation including any withholding necessary to make available to the Company any tax deductions or

benefits attributable to Employee's sale or early disposition of such shares. Employee understands that if he or she disposes of such shares at any time after the expiration of the two (2)-year and one-(1) year holding periods, he or she will be treated for U.S. federal income tax purposes as having received income only at the time of such disposition, and that such income will be taxed as ordinary income only to the extent of an amount equal to the lesser of (i) the excess of the fair market value of the shares at the time of such disposition over the purchase price paid for the shares, or (ii) fifteen percent (15%) of the fair market value of the shares on the first day of the Offering Period. The remainder of the gain, if any, recognized on such disposition will be taxed as capital gain.

7. Employee hereby agrees to be bound by the terms of the Plan. The effectiveness of this Subscription Agreement is dependent upon Employee's eligibility to participate in the Plan.

8. Notwithstanding any provisions in this Subscription Agreement, Employee understands that if Employee is working or resident in a country other than the U.S., Employee's participation in the Plan also will be subject to the additional terms and conditions set forth in Appendix A and any special terms and conditions for Employee's country set forth in Appendix A. Moreover, if Employee relocates to one of the countries included in Appendix A, the special terms and conditions for such country will apply to Employee to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. Appendix A constitutes part of this Subscription Agreement and the provisions of this Subscription Agreement govern each Appendix (to the extent not superseded or supplemented by the terms and conditions set forth in the applicable Appendix).

Employee's Social Security Number:

\_\_\_\_\_

Employee's Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

EMPLOYEE UNDERSTANDS THAT THIS SUBSCRIPTION AGREEMENT WILL REMAIN IN EFFECT THROUGHOUT SUCCESSIVE OFFERING PERIODS UNLESS TERMINATED BY EMPLOYEE.

Dated: \_\_\_\_\_

Signature of Employee \_\_\_\_\_

**EXHIBIT B**

**UDEMY, INC.**

**2021 EMPLOYEE STOCK PURCHASE PLAN**

**NOTICE OF WITHDRAWAL**

Unless otherwise defined herein, the terms defined in the Udemey Inc. 2021 Employee Stock Purchase Plan (the “**Plan**”) shall have the same defined meanings in this Notice of Withdrawal.

The undersigned Participant in the Offering Period of the Plan that began on \_\_\_\_\_ (the “**Offering Date**”) hereby notifies the Company that he or she hereby withdraws from the Offering Period. He or she hereby directs the Company to pay to the undersigned as promptly as practicable all the payroll deductions credited to his or her account with respect to such Offering Period. The undersigned understands and agrees that his or her option for such Offering Period will be terminated automatically. The undersigned understands further that no further payroll deductions will be made for the purchase of shares in the current Offering Period and the undersigned will be eligible to participate in succeeding Offering Periods only by delivering to the Company a new Subscription Agreement.

Name and Address of Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:

\_\_\_\_\_

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

\_\_\_\_\_

**APPENDIX A**

**UDEMY, INC.**

**2021 EMPLOYEE STOCK PURCHASE PLAN**

**SUBSCRIPTION AGREEMENT**

**COUNTRY ADDENDUM**

***Terms and Conditions***

This Appendix includes (i) additional terms and conditions applicable to all Participants providing services to the Company or a Designated Company (as defined in the Plan) outside the United States, and (ii) additional terms and conditions applicable to Participants providing services to the Company or a Designated Company in the countries identified below. These terms and conditions are in addition to those set forth in the Subscription Agreement and to the extent there are any inconsistencies between these terms and conditions and those set forth in the Subscription Agreement, these terms and conditions shall prevail. Any capitalized term used in this Appendix without definition shall have the meaning ascribed to such term in the Plan or the Subscription Agreement, as applicable.

Participant understands that this Appendix includes additional terms and conditions that govern the options granted to Participant under the Plan if Participant works in one of the countries listed below. If Participant is a citizen or resident of a country other than the one in which Participant is currently working (or if Participant is considered as such for local law purposes) or if Participant transfers employment to another country after enrolling in the Plan, Participant acknowledges and agrees that the Company will, in its discretion, determine the extent to which the terms and conditions herein will be applicable to Participant.

This Appendix also includes notifications that contain information regarding securities laws, exchange controls, and certain other issues Participants should be aware with respect to participation in the Plan. The information is based on the securities, exchange control, and other laws in effect in the respective countries as of **August 2021**. Such laws are often complex and change frequently. As a result, the Company recommends that Participants not rely on the information in this Appendix as the only source of information relating to the consequences of participation in the Plan because the information included herein may be out of date at the time that Participants purchase shares of Common Stock under the Plan or subsequently sell such shares. Participants also should review the tax summary for their country which the Company will provide as a supplement to the Plan prospectus.

In addition, the information contained herein is general in nature and may not apply to a Participant's particular situation and the Company is not in a position to assure a Participant of any particular result. Accordingly, Participants are advised to seek appropriate professional advice as to how the relevant laws in their country may apply to their particular situation.



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Finally, if Participant is a citizen or resident of a country other than the one in which he or she is currently working (or if he or she is considered as such for local law purposes) or if he or she moves to another country after enrolling in the Plan, the information contained herein may not be applicable to such Participant.

**Participant acknowledges that Participant has been advised to seek appropriate professional advice as to how the relevant laws in Participant's country may apply to Participant's individual situation.**

**I. GLOBAL PROVISIONS APPLICABLE TO PARTICIPANTS IN ALL COUNTRIES OTHER THAN THE UNITED STATES**

1. Foreign Exchange Considerations. Participant understands and agrees that, if Participant's Contributions under the Plan are made in any currency other than U.S. dollars, such Contributions will be converted to U.S. dollars on or prior to the Exercise Date using a prevailing exchange rate in effect at the time such conversion is performed, as determined by the Administrator. Participant understands and agrees that neither the Company nor any Affiliate, Parent, or Subsidiary shall be liable for any foreign exchange rate fluctuation between Participant's local currency and the U.S. dollar that may affect the value of the options granted to Participant under the Plan, or of any amounts due to Participant under the Plan or as a result of the subsequent sale of any shares of Common Stock acquired under the Plan. Participant agrees and acknowledges that Participant will bear any and all risk associated with the exchange or fluctuation of currency associated with Participant's participation in the Plan.

Furthermore, Participant acknowledges and agrees that Participant may be responsible for reporting inbound transactions or fund transfers that exceed a certain amount. Participant is aware that Participant is advised to seek appropriate professional advice as to how the exchange control regulations apply to Participant's participation in the Plan and Participant's specific situation; understanding that the relevant laws and regulations can change frequently and occasionally on a retroactive basis.

2. Tax Withholding Considerations. Participant acknowledges and agrees that, regardless of any action taken by the Company or any Affiliate, Parent, or Subsidiary with respect to any or all income tax, social security, social insurances, national insurance contributions, social insurance contributions, payroll tax, fringe benefit, or other tax-related items related to Participant's participation in the Plan and legally applicable to Participant including, without limitation, in connection with the grant of the options, the purchase or sale of shares of Common Stock acquired under the Plan and/or the receipt of any dividends on such shares ("**Tax-Related Items**"), the ultimate liability for all Tax-Related Items is and remains Participant's responsibility and may exceed the amount actually withheld by the Company or any Affiliate, Parent, or Subsidiary. Furthermore, Participant acknowledges that the Company and/or any Affiliate, Parent, or Subsidiary (a) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the options or other benefits under the Plan and (b) do not commit to and are under no obligation to structure the terms of the grant of options, other benefits or any aspect of Participant's participation in the Plan to reduce or eliminate Participant's liability for Tax-Related Items or achieve any particular tax result. Further, if Participant becomes subject to tax in more than one jurisdiction, or change Participant's jurisdiction of primary residence or employment between the start of an Offering Period and the date of any relevant taxable or tax withholding event, as applicable, Participant acknowledges that the Company and/or any Affiliate, Parent, or Subsidiary (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to the purchase of shares of Common Stock under the Plan or any other relevant taxable or tax withholding event, as applicable, Participant agrees to make adequate arrangements satisfactory to the Company and/or any Affiliate, Parent, or Subsidiary to satisfy all Tax-Related Items. In this regard, Participant authorizes the Company and/or any Affiliate, Parent or Subsidiary, or their respective agents, at their discretion, to satisfy the withholding obligations with regard to all Tax-Related Items by one or a combination of the following: (i) withholding from Participant's wages or other compensation paid to Participant, (ii) withholding of shares of Common Stock otherwise issuable under the Plan and having an aggregate fair market value on the date of delivery sufficient to meet the withholding obligation, as determined by the Company in its sole discretion, or (iii) withholding from proceeds of the sale of the shares of Common Stock purchased under the Plan either through a voluntary sale or through a mandatory sale arranged by the Company (on Participant's behalf pursuant to this authorization). Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable maximum applicable withholding rates, in which case Participant will receive a refund of any over-withheld amount in cash and will have no entitlement to the Common Stock equivalent.

Finally, Participant agrees to pay to the Company or applicable Affiliate, Parent, or Subsidiary any amount of Tax-Related Items that the Company or Affiliate, Parent, or Subsidiary may be required to withhold as a result of Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to purchase shares of Common Stock under the Plan on Participant's behalf and/or refuse to issue or deliver the shares or the proceeds of the sale of shares if Participant fails to comply with Participant's obligations in connection with the Tax-Related Items.

3. Additional Participant Acknowledgements. By electing to participate in the Plan, Participant acknowledges, understands, and agrees that:

- (a) the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, amended, suspended or terminated by the Company at any time, to the extent provided for in the Plan;
- (b) all decisions with respect to future grants of options under the Plan, if any, will be at the sole discretion of the Company;
- (c) the grant of the options under the Plan shall not create a right to employment or be interpreted as forming an employment or service contract with the Company, or any Affiliate, Parent, Subsidiary of the Company, and shall not interfere with the ability of the Company or any Affiliate, Parent or Subsidiary, as applicable, to terminate Participant's employment;
- (d) Participant is voluntarily participating in the Plan;
- (e) the options granted under the Plan and the shares of Common Stock underlying such options, and the income and value of same, are not intended to replace any pension rights or compensation;

(f) the options granted under the Plan and the purchase of shares of Common Stock underlying such options, and the income and value of same, are not part of Participant's normal or expected compensation for any purpose, including, but not limited to, calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension or retirement benefits or similar payments;

(g) the future value of the shares of Common Stock underlying the options granted under the Plan is unknown, indeterminable and cannot be predicted with certainty, and may be greater or less than the value of shares of Common Stock on the date hereof, the date of Participant's contributions to the Plan, and/or the dates of any applicable purchases of shares under the Plan;

(h) the shares of Common Stock that Participant acquires under the Plan may increase or decrease in value, even below the Purchase Price;

(i) no claim or entitlement to compensation or damages shall arise from the forfeiture of all or any portion of the options granted to Participant under the Plan as a result of the termination of Participant's status as an Eligible Employee (for any reason whatsoever, and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any) and, in consideration of the grant of the options under the Plan to which Participant is otherwise not entitled, Participant irrevocably agrees

(i) never to institute a claim against the Company, or any Affiliate, Parent, or Subsidiary, (ii) to waive Participant's ability, if any, to bring such claim, and (iii) to release the Company, any Affiliate, Parent or Subsidiary from any such claim that may arise; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, Participant shall be deemed irrevocably to have agreed to not to pursue such claim and agree to execute any and all documents necessary to request dismissal or withdrawal of such claim;

(j) in the event of the termination of Participant's status as an Eligible Employee (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any), Participant's right to participate in the Plan and all or any portion of the option granted to Participant under the Plan, if any, will terminate effective as of the date that Participant is no longer actively employed by the Company or a Designated Company, and, in any event, will not be extended by any notice period mandated under the employment laws in the jurisdiction in which Participant is employed or the terms of Participant's employment agreement, if any (*e.g.*, active employment would not include a period of "garden leave" or similar period pursuant to the employment laws in the jurisdiction in which Participant is employed or the terms of Participant's employment agreement, if any); the Company shall have the exclusive discretion to determine when Participant is no longer actively employed for purposes of Participant's participation in the Plan (including whether Participant may still be considered to be actively employed while on a leave of absence);

(k) in the event Participant is not an employee of the Company (as opposed to Participant's local employer), Participant understands and agrees that neither the offer to participate in the Plan, nor Participant's participation in the Plan, will be interpreted to form an employment relationship with the Company, and furthermore, nothing in the Plan, the Subscription Agreement nor Participant's participation in the Plan will be interpreted to form an employment contract with the Company; and

(l) the grant of the options under the Plan and the benefits evidenced by the Subscription Agreement do not create any entitlement not otherwise specifically provided for in the Plan, or provided by the Company in its discretion, to have such rights or benefits transferred to, or assumed by, another company nor to be exchanged, cashed out or substituted for, in connection with a sale of substantially all of the Company's assets or a merger of the Company in which the Company is not the surviving corporation.

**4. Data Privacy. Participant understands that the Company and/or any Designated Company may collect, where permissible under applicable law certain personal information about Participant, including, but not limited to, Participant's name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of Common Stock or directorships held in the Company, details of all options granted under the Plan or any other entitlement to shares of Common Stock awarded, canceled, exercised, vested, unvested or outstanding in Participant's favor ("Data"), for the exclusive purpose of implementing, administering and managing the Plan. Participant understands that the Company may transfer Participant's Data to the United States, which may have different, including less stringent, data protection laws than the laws in Participant's country. Participant understands that the Company will transfer Participant's Data to its designated broker, E\*Trade, or such other stock plan service provider as may be selected by the Company in the future, which is assisting the Company with the implementation, administration, and management of the Plan. Participant understands that the recipients of the Data may be located in the United States or elsewhere, and that a recipient's country of operation (e.g., the United States) may have different, including less stringent, data privacy laws that Participant's jurisdiction does not consider to be equivalent to the protections in Participant's country. Participant understands that Participant may request a list with the names and addresses of any potential recipients of the Data by contacting Participant's local human resources representative. Participant authorizes the Company, the Company's designated broker and any other possible recipients which may assist the Company with implementing, administering, and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purpose of implementing, administering and managing Participant's participation in the Plan. Participant understands that Data will be held only as long as is necessary to implement, administer and manage Participant's participation in the Plan. Participant understands that that Participant may, at any time, view Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing Participant's local human resources representative. Further, Participant understands that Participant is providing the consents herein on a purely**

voluntary basis. If Participant does not consent, or if Participant later seeks to revoke Participant's consent, Participant's employment status or career with the Company or any Designated Company will not be adversely affected; the only consequence of refusing or withdrawing Participant's consent is that the Company would not be able to grant Participant options under the Plan or other equity awards, or administer or maintain such awards. Therefore, Participant understands that refusing or withdrawing Participant's consent may affect Participant's ability to participate in the Plan. For more information on the consequences of Participant's refusal to consent or withdrawal of consent, Participant understands that Participant may contact Participant's local human resources representative.

Participant hereby explicitly and unambiguously consents to the collection, use, and transfer, in electronic or other form, of Participant's personal data as described herein and any other Plan materials by and among, as applicable, the Company or Affiliate, Parent, or Subsidiary of the Company for the exclusive purpose of implementing, administering, and managing Participant's participation in the Plan. Participant understands that Participant's consent will be sought and obtained for any processing or transfer of Participant's data for any purpose other than as described herein and any other plan materials.

5. Recommendation Regarding External Advice. Participant understands and agrees that none of the Company, Affiliates, Parents, and Subsidiaries are providing any tax, legal or financial advice, nor is the Company or any Affiliate, Parent, or Subsidiary making any recommendations or assessments regarding Participant's participation in the Plan, or Participant's acquisition or sale of the underlying shares of Common Stock, or any subsequent disposal or retention of such shares of Common Stock. Participant understands that Participant is hereby advised to consult with Participant's own personal tax, legal, and financial advisors regarding Participant's participation in the Plan before taking any action related to the Plan.

6. Translated Documents. If Participant has received the Subscription Agreement or any other document related to the Plan translated into a language other than English, Participant understands that such translated documents were provided for convenience only, and that if the meaning of the translated version is different than the English version, the English version will control.

## II. GLOBAL PROVISIONS APPLICABLE TO PARTICIPANTS IN ALL COUNTRIES OTHER THAN THE UNITED STATES

### Australia

General Advice Only. Any advice given by the Company or its affiliates, Parent, or Subsidiaries in relation to participation in the Plan does not take into account the objectives, financial situation, and needs of Participants in Australia (“**Australian Participants**”). Australian Participants should consider obtaining their own financial product advice from an independent person who is licensed by the Australian Securities & Investments Commission (“**ASIC**”) to give such advice.

Acquisition Price. The acquisition price payable by Australian Participants to purchase Common Stock under the Plan is an amount equal to eighty-five percent (85%) of the Fair Market Value of a share of Common Stock on the Enrollment Date or on the Exercise Date, whichever is lower.

Risks of Acquiring Shares. Investing in stock involves risk and the value of the options can rise and fall with any rise or fall with the value of the Common Stock. Any advice given by the Company in relation to the option does not take into account the personal objectives, financial situation, and needs of the Australian Participants. Before enrolling in the Plan and purchasing Common Stock, Australian Participants should satisfy themselves that they have a sufficient understanding of risks of acquiring and holding shares of Common Stock, and should consider whether the Common Stock is a suitable investment, considering the Australian Participants’ own investment objectives, financial circumstances, and taxation position. Accordingly, Australian Participants should consider obtaining their own financial advice by a financial advisor (licensed by ASIC to give such advice) regarding the merits of the offer in respect of the Australian Participants own circumstances.

In addition, there is no assurance that the Company will pay dividends or that such payments will remain constant or increase. Payment of future dividends, if any, and the timing and amount of any dividends the Company determines to pay, are at the discretion of the Company’s Board.

Market Price in Australian Dollars. An Australian Participant could, from time to time, ascertain the market price of the Common Stock by obtaining that price from the Company website or The Wall Street Journal, and multiplying that price by a published exchange rate to convert U.S. Dollars into Australian Dollars.

Deferral of Tax Payable. Subdivision 83A-C of the *Income Tax Assessment Act 1997* (Cth) applies to all options granted under this Subscription Agreement to Australian Participants.

Data Privacy. Participant acknowledges and agrees that if the Company or its Affiliates, Parent, and Subsidiaries discloses any personal information about Participant to a recipient outside of Australia then the Company, and its Affiliates, Parent, and Subsidiaries will not be required by law to take steps to ensure that the recipient complied with the Australian Privacy Principles or responsible for any breaches of the Australian Privacy Principles by the recipient in respect of that information. Participant consents to personal information collected by the Company, its Affiliates, Parent, and Subsidiaries about Participant under this Subscription Agreement being disclosed to recipients outside of Australia.

Exchange Control Information. Participant understands that Participant may have exchange control reporting obligations in connection with transfers that exceed A\$10,000. The bank handling the transaction will generally complete the reporting requirements.

## **Brazil**

Exchange Control Information. When transferring amounts resulting from the sale of shares of stock to Brazil, such funds must be transferred by wire and declared as such through the foreign exchange closing operations of the Participant's preferred financial institution in Brazil. The amounts received from abroad also must, subsequently, be declared by the Participant for tax purposes. By participating in the Plan, Participant understands that Participant is generally required to make an annual report of shares held outside Brazil to the tax authorities and the Central Bank if such holdings exceed a specified limit (typically US\$100,000).

## **India**

Foreign Assets Reporting Information. Participant understands that Participant must declare foreign bank accounts and any foreign financial assets (including Common Stock purchased pursuant to the Plan held outside India) in Participant's annual tax return. Participant further understands that it is Participant's responsibility to comply with this reporting obligation and Participant should consult with his or her personal tax advisor in this regard. Indian residents should consult with their personal tax advisor to determine their personal reporting obligations.

Exchange Control Information. Participant understands that Participant must repatriate any proceeds from the sale of Common Stock acquired under the Plan or the receipt of any dividends to India within 90 days of receipt and convert such amounts to local currency within 180 days of receipt. Participant further understands that Participant must obtain a foreign inward remittance certificate ("**FIRC**") from the bank where Participant deposits the foreign currency and maintain the FIRC as evidence of the repatriation of funds in the event the Reserve Bank of India or Participant's employer requests proof of repatriation.



## **Ireland**

Director Reporting Obligation. Participant understands that if Participant is a director, shadow director, or secretary of an Affiliate, Parent, or Subsidiary in Ireland, Participant must notify the Irish Affiliate, Parent or Subsidiary in writing within five business days of receiving or disposing of an interest in the Company (*e.g.*, Options, Common Stock), or within five business days of becoming aware of the event giving rise to the notification requirement or within five days of becoming a director or secretary if such an interest exists at the time. This notification requirement also applies with respect to the interests of Participant's spouse or children under the age of 18 (whose interests will be attributed to the Participant if Participant is a director, shadow director or secretary).

## **Turkey**

Securities Law Information. Participant acknowledges and agrees that this offer has been made by the Company to Participant personally in connection with an existing relationship with the Company or one or more of its Affiliates, Parent, Subsidiaries, and/or related companies, and further, that the option, the related shares of Common Stock, and the related offer thereof are not subject to regulation by any securities regulator in Turkey or otherwise outside of the United States.