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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): March 04, 2025

5E ADVANCED MATERIALS, INC.

(Exact name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-41279
(Commission File Number)

87-3426517
(IRS Employer
Identification No.)

9329 Mariposa Road, Suite 210
Hesperia, California
(Address of Principal Executive Offices)

92344
(Zip Code)

Registrant's Telephone Number, Including Area Code: (442) 221-0225

(Former Name or Former Address, if Changed Since Last Report)

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, \$0.01 par value per share	FEAM	The Nasdaq Global Select Market

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

Emerging growth company

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

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

As reported below under Item 5.07 of this Current Report on Form 8-K, on March 4, 2025, 5E Advanced Materials, Inc., a Delaware corporation (the “Company”) held a Special Meeting of Stockholders (the “Special Meeting”). At the Special Meeting, the Company’s stockholders approved an Amended and Restated 5E Advanced Materials, Inc. 2022 Equity Compensation Plan (the “Plan” and as amended and restated, the “Amended and Restated Plan”) to (i) increase the aggregate number of shares of common stock, par value \$0.01 (“Common Stock”) reserved for issuance under the Plan by 608,695 shares (reflecting proportional adjustments for the Company’s 1-for-23 reverse stock split effected on February 14, 2025 (the “Reverse Stock Split”), (ii) to allow the Company to grant incentive stock options (“ISOs”) to eligible participants in an amount not to exceed 934,782 shares (reflecting proportional adjustments for the Reverse Stock Split), and provided that the Company may only grant ISOs through January 24, 2035, (iii) remove the Company’s ability to grant director restricted share units, and (iv) to increase the number of shares that may be issued to any individual (when combined with all of our other securities-based arrangements, as applicable) to 3% (increased from 2%) of the Company’s outstanding number of issued shares from time to time. The Amended and Restated Plan was adopted by the Company’s Board of Directors on January 24, 2025 and became effective on such date.

The terms and conditions of the Amended and Restated Plan are described in the section entitled “Proposal Two – To approve the Amended and Restated 5E Advanced Materials, Inc. 2022 Equity Compensation Plan” in the Company’s Definitive Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on February 3, 2025 (the “Special Meeting Proxy Statement”). The foregoing description of the Amended and Restated Plan does not purport to be complete and is qualified in its entirety by reference to the complete text of the Amended and Restated Plan, a copy of which is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

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

As discussed above, on March 4, 2025, the Company held the Special Meeting at which a quorum was present. At the Special Meeting, the following matters, each as discussed in the Special Meeting Proxy Statement, were voted upon by the Company’s stockholders:

1. the approval, for purposes of complying with the Nasdaq Listing Rules and the ASX Listing Rules, and for all other purposes, (a) the issuance of 312,490,076 shares of Common Stock (which number of shares, upon issuance, will be adjusted for the Reverse Stock Split) to the holders of our outstanding senior secured convertible promissory notes (the “Notes, and such holders, the “Noteholders”) upon exchange of all of the Company’s outstanding Notes, and (b)(i) the issuance and sale to the Noteholders of \$5.0 million of Common Stock at the price per share described in the Special Meeting Proxy Statement and (ii) the issuance to the Noteholders of warrants to purchase up to \$20.0 million of Common Stock at the exercise price described in the Special Meeting Proxy Statement (the “Share Issuance Proposal”);
2. the approval of the Amended and Restated 5E Advanced Materials, Inc. 2022 Equity Compensation Plan (the “Equity Plan Proposal”);
3. the approval, for the purposes of ASX Listing Rule 10.14 and for all other purposes, of the participation by each of (1) Graham van’t Hoff, (2) Barry Dick, (3) Bryn Jones, and (4) Curtis J. Hebert, in the Amended and Restated Plan, each as a separate resolution (the “ASX Director Compensation Proposals”); and
4. the approval of the adjournment of the Special Meeting, if necessary, to solicit additional proxies if there are not sufficient votes in favor of Proposals One, Two or Three (the “Adjournment Proposal”). The Adjournment Proposal was presented at the Special Meeting but was not needed as Proposals One, Two and Three each received a sufficient number of votes for approval.

As disclosed under the heading “Voting Exclusion Statement” in the Special Meeting Proxy Statement, under the rules of the ASX, the Company disregarded votes cast in favor of certain proposals for those shareholders who may have had an interest in the outcome thereof, which voting exclusions impacted the final voting results reflected below.

The following are the voting results for each matter presented to the Company’s stockholders at the Special Meeting. The vote totals do not reflect adjustments for the Reverse Stock Split, which became effective on February 14, 2025, as disclosed in the Company’s Current Report on Form 8-K filed with the SEC on February 18, 2025, as the January 27, 2025 record date for the Special Meeting preceded the effective date of the Reverse Stock Split:

	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>BROKER NON- VOTES</u>
1. Share Issuance Proposal	30,087,910	293,654	542,222	0
	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>BROKER NON- VOTES</u>
2. Equity Plan Proposal	27,641,073	2,092,632	1,190,081	0

3. ASX Director Compensation Proposal	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>BROKER NON-VOTES</u>
Graham van't Hoff	27,681,907	2,626,073	615,806	0
Barry Dick	28,980,588	1,328,066	615,132	0
Bryn Jones	28,980,758	1,327,896	615,132	0
Curt Hebert	28,037,796	2,770,858	115,132	0

4. Adjournment Proposal	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>BROKER NON-VOTES</u>
	29,926,716	890,371	106,699	0

Based on the foregoing, Proposals 1, 2 and 4 were approved, and the participation by each of the individuals set forth in Proposal 3 was approved. No other matters were submitted to or voted on by the Company's stockholders at the Special Meeting.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
10.1	Amended and Restated 5E Advanced Materials, Inc. 2022 Equity Compensation Plan.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

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

5E Advanced Materials, Inc.

Date: March 4, 2025

By: /s/ Joshua Malm
Joshua Malm
Chief Financial Officer, Treasurer and Corporate Secretary

Amended and Restated
5E Advanced Materials, Inc.
2022 Equity Compensation Plan

1. PURPOSE

The Board of Directors (the “**Board**”) of 5E Advanced Materials Inc., a Delaware corporation (the “**Company**”), has adopted this Amended and Restated 2022 Equity Compensation Plan (the “**Plan**”) to promote the financial interests of the Company by providing a means by which current and prospective directors, officers, key employees and consultants of the Company can be retained and motivated through acquiring an equity interest in the Company or be paid incentive compensation in the form of the Company’s Common Stock. This Plan constitutes an amendment and restatement of the 2022 Equity Compensation Plan, as amended (the “**Original Plan**”). This amended and restated Plan will be effective on the Restatement Effective Date. In the event stockholders of the Company do not approve this amended and restated Plan, the Original Plan will continue in full force and effect on its existing terms and conditions.

2. AWARDS UNDER THE PLAN

The Plan provides for the grant of any of the following Awards:

- a. **Stock Options (“Options”)** – the right, but not the obligation, to purchase Common Stock at a specified price, subject to certain conditions; Options will be granted as either Incentive Stock Options or Non-Qualified Stock Options,
- b. **Restricted Share Units (“RSU”)** – an unfunded and unsecured promise to deliver shares of Common Stock (“**Shares**”) upon attainment of certain service-based conditions,
- c. **Performance Share Units (“PSU”)** – an unfunded and unsecured promise to deliver Shares that vest through attainment of certain service-based and performance-based conditions,
- d. **Performance Cash Units (“PCU”)** – an unfunded and unsecured promise to deliver a specified monetary amount that vest through attainment of certain service-based and performance-based conditions, and
- e. **Other Equity-Based Awards** – an award that is not an Option, RSU or PSU, that is granted under the Plan and is (i) payable by delivery of Common Stock, and/or (ii) measured by reference to the value of Common Stock.

3. SHARES SUBJECT TO THE PLAN

- a. Subject to Section 14 of the Plan, the maximum number of Shares available for issuance pursuant to Awards granted under the Plan is 21,500,000 (the “**Plan Share Reserve**”). The Company cannot increase such number without shareholder approval. Notwithstanding anything to the contrary herein, no more than 21,500,000 Shares may be issued pursuant to the exercise of Incentive Stock Options.
- b. Each Award granted under the Plan will reduce the Plan Share Reserve by the number of Shares underlying the Award. Other than with respect to Substitute Awards, to the extent that an Award expires or is canceled, forfeited, or terminated without issuance to the Participant of the full number of Shares to which the Award related, the unissued Shares will be returned for future grant under the Plan. Shares that have actually been issued under the Plan under any Award will not be returned to the Plan and will not become available for issuance under the Plan. Shares withheld in payment of the exercise price or Tax-Related Items with respect to Awards will be returned to the Plan Share Reserve for future grants of Awards under the Plan and shall not reduce the Plan Share Reserve. To the extent an award under the Plan is paid out in cash rather than Shares, such cash payment shall not reduce the number of Shares available for issuance under the Plan Share Reserve.

- c. Shares delivered by the Company in settlement of Awards may be issued by the Company from:
 - i. authorized and unissued Shares,
 - ii. Shares held in treasury by the Company,
 - iii. Shares purchased by the Company on the open market or by private purchase, or
 - iv. any combination of the foregoing.
- d. Awards may, in the sole discretion of the Board, be granted under the Plan in assumption of, or in substitution for, outstanding awards previously granted by an entity acquired by the Company or with which the Company combines (“**Substitute Awards**”). If the Board determines that Substitute Awards are to be granted under the Plan, the number of Shares underlying any Substitute Awards shall not be counted against the aggregate number of Shares available for Awards under the Plan, except that Shares acquired by exercise of substitute Incentive Stock Options will count against the maximum number of Shares that may be issued pursuant to the exercise of Incentive Stock Options under the Plan.

4. ELIGIBILITY & PARTICIPATION

- a. Participation in the Plan is by invitation of and at the sole discretion of the Board. The Board may grant Awards to Eligible Participants.
- b. Individual grants are determined by an assessment of an individual’s current and expected future performance, level of responsibilities and the impact of the position, and contribution to the Company.
- c. An “Eligible Participant” may be granted more than one Award under the Plan, and Awards may be granted at any time or times prior to the termination of the Plan. Vesting periods and designated Performance Periods may overlap, and Participants may participate simultaneously with respect to Options or other Awards that are subject to different Performance Periods and different performance goals and other criteria.
- d. In no circumstance will the number of Shares that may be issued to any individual under the Plan (when combined with all the Company’s other security-based compensation arrangements, as applicable) exceed 3% of the Company’s outstanding issue from time to time.
- e. The maximum number of Shares subject to Awards granted during a single Fiscal Year to any Non-Employee Director, taken together with any cash fees paid to such Non-Employee Director during the Fiscal Year, may not exceed **USD 750,000** in total value (calculating the value of any such Awards based on the grant date fair value of such Awards for financial reporting purposes).

5. ADMINISTRATION

- a. The Board, acting upon recommendations from the Compensation Committee (Committee), shall administer the Plan. Unless otherwise expressly provided in the applicable governing documents of the Company, the acts of a majority of the members present at any meeting of the Board at which a quorum is present, or acts approved in writing by all of the members of the Board, shall be deemed the acts of the Board.
- b. The Board may, at its sole discretion, at any time, grant Awards and administer the Plan with respect to such Awards. In any such case, the Board shall have all the authority granted to the Board under the Plan, including but not limited to:
 - i. designate Eligible Participants,
 - ii. determine the type or types of Awards to be granted to Eligible Participants,

- iii. determine the number of Shares to be covered by, or with respect to which payments, rights or other matters are to be calculated in connection with Awards,
 - iv. determine the terms and conditions of any Award,
 - v. determine whether, to what extent and under what circumstances Awards may be settled or exercised in cash, Shares, CDIs, other securities, other Awards or other property,
 - vi. interpret, administer, reconcile any inconsistency in, correct any defect in and/or supply any omission in the Plan and any instrument or agreement relating to, or Award granted under, the Plan,
 - vii. establish, amend, suspend, or waive any rules and regulations and appoint such agents as the Board shall deem appropriate for the proper administration of the Plan,
 - viii. accelerate or extend the vesting or exercisability of, payment for, or lapse of restrictions on Awards,
 - ix. adjust Performance Factors to account for changes in law and accounting or tax rules as the Committee deems necessary or appropriate to reflect the impact of extraordinary or unusual items, events, or circumstances to avoid windfalls or hardships, and
 - x. make any other determination and take any other action that the Board deems necessary or desirable for the administration of the Plan and to protect the interests of the Company.
- c. The Board may delegate to the Committee, and/or one or more officers of the Company or of any Affiliate, the authority to act on behalf of the Board with respect to any matter, right, obligation or election that is the responsibility of, or that is allocated to, the Board in the Plan and that may be so delegated as a matter of law. References to Committee in this Plan shall mean the Board to the extent the Board has not delegated its authority hereunder to a Committee. To the extent the Board has delegated its authority hereunder to a Committee and the intent is to comply with the provisions of Rule 16b-3 promulgated under the Exchange Act, it is intended that each member of the Committee shall, at the time such member takes any action with respect to an Award under the Plan that is intended to qualify for the exemptions provided by Rule 16b-3 promulgated under the Exchange Act be a Qualifying Director. However, the fact that a Committee member shall fail to qualify as a Qualifying Director shall not invalidate any Award granted by the Committee that is otherwise validly granted under the Plan.
- d. The Award Agreement for a given Award, the Plan, and any other documents may be delivered to, and accepted by, an Eligible Participant or any other person in any manner (including electronic distribution or posting) that meets applicable legal requirements.
- e. To comply with the laws and practices in other countries in which the Company, its Affiliates operate or have employees or other individuals eligible for Awards, the Board in its sole discretion will have the power and authority to:
- i. determine which Affiliates will be covered by the Plan,
 - ii. determine which individuals outside the United States are eligible to participate in the Plan, which may include individuals who provide services to the Company or Affiliate under an agreement with a foreign nation or agency,
 - iii. modify the terms and conditions of any Award granted to individuals outside the United States or foreign nationals to comply with applicable foreign laws, policies, customs, and practices,
 - iv. establish subplans and modify exercise procedures, vesting conditions, and other terms and procedures to the extent the Committee determines such actions to be necessary or

advisable (and such subplans and/or modifications will be attached to this Plan as appendices, if necessary), and

- v. take any action, before or after an Award is made, that the Committee determines to be necessary or advisable to obtain approval or comply with any local governmental regulatory exemptions or approvals, *provided, however*, that no action taken under this provision will increase the Share limitations contained in Section 3.a. of this Plan. Notwithstanding the foregoing, the Committee may not take any actions hereunder, and no Awards will be granted, that would violate the Exchange Act or any other applicable United States securities law, the Code, or any other applicable United States governing statute or law.
- f. Notwithstanding the foregoing, the full Board shall administer the Plan with respect to any director share units (“**DSUs**”) granted to Non-Employee Directors prior to the Restatement Effective Date. As of the Restatement Effective Date, the Company will cease granting DSUs under the Plan; however, DSUs issued under the Plan (prior to the Restatement Effective Date) and outstanding as of the Restatement Effective Date will remain subject to the terms of the Original Plan.

6. STOCK OPTIONS

- a. **Option Grants.** The Board may grant Options to Eligible Participants subject to the limitations in the Plan, including any limitations in the Plan that apply to Incentive Stock Options. Each grant will specify the number of Shares subject to the Option, the Exercise Price of the Option, the period during which the Option may vest and be exercised, and all other terms and conditions of the Option, subject to the following terms of this section.
- b. **Type of Option.** All Options granted under this Plan will be either Incentive Stock Options or Non-Qualified Stock Options.
- c. **Date of Grant.** The date of grant of an Option will be the date on which the Board makes the determination to grant such Option, or a specified future date. The Award Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the Option.
- d. **Vesting Period.** Unless otherwise prescribed in the Award Agreement, forty percent (40%) of the Options will vest on the second anniversary of the date the Option is granted, and the remaining sixty percent (60%) will vest on the third anniversary of the date the Option is granted.
- e. **Exercise Period.** Vested Options are exercisable within the times or upon the conditions as set forth in the Award Agreement governing such Option, *provided, however*, that, subject to Section 6(j), no Option will be exercisable after the expiration of ten (10) years from the date the Option is granted. Should the expiry date should be determined to occur either during a blackout period or within ten business days following the expiry of a blackout period, the expiry date of such Option (other than an Incentive Stock Option) shall be deemed to be the date that is the tenth business day following the expiry of the Blackout Period or, in the case of Participants who are U.S. taxpayers, such earlier date that may be required to avoid the application of adverse tax consequences under Section 409A of the Code.
- f. **Exercise Price.** The exercise price of an Option will be set by the Board when the Option is granted. Except as otherwise provided by the Board in the case of Substitute Awards, and subject to Section 6(j), the exercise price will be not less than one hundred percent (100%) of the Fair Market Value of the Shares on the date of grant. Payment for the Shares purchased may be made in accordance with the Award Agreement and any procedures established by the Company.
- g. **Method of Exercise.** Any Option granted hereunder will be vested and exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Committee and set forth in the Award Agreement. An Option may not be exercised for a fraction of a Share. An Option will be deemed exercised when the Company receives:

- i. notice of exercise (in such form as the Committee may specify from time to time) from the person entitled to exercise the Option (and/or via electronic execution through the authorized third-party administrator), and
 - ii. full payment for the Shares with respect to which the Option is exercised (together with applicable withholding taxes). Full payment may consist of any consideration and method of payment authorized by the Board and permitted by the Award Agreement and the Plan. Shares issued upon exercise of an Option will be issued in the name of the Participant. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares, notwithstanding the exercise of the Option. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued. Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.
- h. **Limitations on Exercise.** The Committee may specify a minimum number of Shares that may be purchased on any exercise of an Option, *provided* that such minimum number will not prevent any Participant from exercising the Option for the full number of Shares for which it is then exercisable.
- i. **Separation from Service.** In the event a Participant's service with the Company ceases during the vesting period, any unvested Options held by the Participant shall expire and be forfeited immediately, *provided however* that the Board shall have the absolute discretion to accelerate the vesting date. Except as otherwise provided in an Award Agreement, vested Options must be exercised in accordance with the terms of this Plan by the earlier of the first anniversary date of the termination of service or the expiry date of the Option.
- j. **Additional Terms of Incentive Stock Options.** The Board may grant Incentive Stock Options only to employees of the Company, any of its present or future parent or subsidiary corporations, as defined in Sections 424(e) or (f) of the Code, respectively, and any other entities the employees of which are eligible to receive Incentive Stock Options under the Code. If an Incentive Stock Option is granted to a Greater Than 10% Stockholder, the exercise price will not be less than 110% of the Fair Market Value on the Option's grant date, and the term of the Option will not exceed five (5) years. All Incentive Stock Options will be subject to and construed consistently with Section 422 of the Code. By accepting an Incentive Stock Option, the Participant agrees to give prompt notice to the Company of dispositions or other transfers (other than in connection with a Change in Control) of Shares acquired under the Option made within (i) two (2) years from the grant date of the Option or (ii) one (1) year after the transfer of such Shares to the Participant, specifying the date of the disposition or other transfer and the amount the Participant realized, in cash, other property, assumption of indebtedness or other consideration, in such disposition or other transfer. Neither the Company nor the Board will be liable to a Participant, or any other party, if an Incentive Stock Option fails or ceases to qualify as an "incentive stock option" under Section 422 of the Code. Any Incentive Stock Option or portion thereof that fails to qualify as an "incentive stock option" under Section 422 of the Code for any reason, including becoming exercisable with respect to Shares having a fair market value exceeding the \$100,000 limitation under Treasury Regulation Section 1.422-4, will be a Non-Qualified Stock Option. The foregoing terms shall be incorporated into any Award Agreement evidencing an Option intended to be an Incentive Stock Option to the extent necessary to cause such Award to so qualify.

7. RESTRICTED SHARE UNITS

- a. **RSU Grants.** The Plan authorizes the Board to grant RSUs. Each RSU provides the recipient with the right to receive Common Stock as a discretionary payment in consideration of past services or as an incentive for future services, subject to the Plan and with such additional provisions and restrictions as the Board may determine. Each RSU grant shall be evidenced by an Award

Agreement stating the number of RSUs granted, the vesting requirements, any other restrictions or conditions associated, and the method of exercise.

- b. **Date of Grant.** The date of grant of an RSU will be the date on which the Board makes the determination to grant such RSU or a specified future date. Unless specified otherwise by the Board, RSUs are granted after the financial results for each fiscal year have been approved by the Board. The Award Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the RSU.
- c. **Vesting.** Concurrent with the granting of the RSU, the Board shall determine the period during which the RSU is not vested and the holder of such RSU remains ineligible to receive Common Stock. Such period may be reduced or eliminated from time to time for any reason as determined by the Board. Unless specified otherwise, forty percent (40%) of the RSUs granted vest at the expiry of the Company's first Fiscal Year immediately following the Fiscal Year in which the RSUs were granted, and the remaining sixty percent (60%) vest at the expiry of the second Fiscal Year following the Fiscal Year in which the RSUs were granted.
- d. **Expiration.** Unless specified otherwise by the Board at the time of grant, RSUs have a notional term of three years, and expire at the end of the second Fiscal Year following the Fiscal Year in which they were granted.
- e. **Form and Timing of Settlement.** The Board, at its sole discretion, may settle vested RSUs in Shares, cash, or a combination of both, and will determine at the time of grant the timing of settlement of vested RSUs (consistent with the requirements of Section 409A of the Code to avoid adverse tax consequences thereunder, if applicable), in each case, as set forth in the Award Agreement.
- f. **Separation from Service.** In the event a Participant's service with the Company ceases during the vesting period, any unvested RSUs held by the Participant shall expire and be forfeited immediately, *provided however* that the Board shall have the absolute discretion to accelerate the vesting date.
- g. **Dividend Equivalent Rights.** The Board may, in its sole discretion, grant Dividend Equivalent Rights, payable in cash, Shares, other securities, other Awards or other property, on such terms and conditions as may be determined by the Board in its sole discretion, including, without limitation, payment directly to the Participant, withholding of such amounts by the Company subject to vesting of the Award or reinvestment in additional Shares.

8. PERFORMANCE SHARE UNITS

- a. **PSU Grants.** The Plan authorizes the Board to grant PSUs. Each PSU provides the recipient with the right to receive a Share as a discretionary incentive, subject to the Plan and with such additional provisions and restrictions as the Board may determine. Each PSU grant shall be evidenced by an Award Agreement stating the number of PSUs granted, the service-based vesting requirements, the performance-based vesting condition(s), and any other associated restrictions or conditions.
- b. **Date of Grant.** The date of grant of a PSU will be the date on which the Board makes the determination to grant such PSU or a specified future date. Unless determined otherwise by the Board, PSUs are granted after the financial results for each Fiscal Year have been approved by the Board. The Award Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the PSU.
- c. **Vesting.** Unless provided otherwise in the Award Agreement each PSU is subject to two or more vesting conditions. Concurrent with the granting of the PSU, the Board shall determine the:
 - i. **Service-based Requirement.** The period the Participant must be in continuous service to the Company to be eligible to receive PSU Awards subject to achievement of performance-based criteria. Unless specified otherwise by the Board, one hundred percent (100%) of the

PSUs granted vest upon expiry of the Company's second Fiscal Year following the Fiscal Year in which the PSUs were granted.

- ii. **Performance-based Requirement(s).** The performance condition(s) to be met for the Participant to vest in PSU Awards after satisfying the service-based vesting requirement. Actual performance realized relative to the goals or criteria established at the date of grant will be measured over a three-year Performance Period ending on the expiry date of the PSU.
 - iii. **Performance Modifier(s).** A modifier for each applicable performance condition to determine the number of PSU Awards that are earned relative to the performance level(s) achieved. The formula for determining the Performance Modifier is set out by the Board for each grant. This Modifier will range from 0.0x to a maximum of 1.5x unless specified otherwise by the Board and is applied to the original number of PSUs granted to calculate the number of PSU Awards vested and earned.
- d. **Term.** Unless specified otherwise by the Board at the time of grant, PSUs have a notional term of three years, and expire at the end of the second Fiscal Year following the Fiscal Year in which they were granted.
 - e. **Form and Timing of Settlement.** The Board, at its sole discretion, may settle vested PSUs in Shares, cash, or a combination of both, and will determine at the time of grant the timing of settlement of vested PSUs (consistent with the requirements of Section 409A of the Code to avoid adverse tax consequences thereunder, if applicable), in each case, as set forth in the Award Agreement.
 - f. **Separation from Service.** In the event a Participant's service with the Company ceases prior to completion of the vesting period, unvested PSUs granted to the Participant shall expire and be forfeited immediately; provided, however, that the Board shall have the absolute discretion to accelerate the vesting date. Should the Board choose to accelerate vesting on PSUs granted, performance vesting conditions will be waived.

9. [RESERVED]

10. **PERFORMANCE CASH UNITS**

- a. **PCU Grants.** The Plan authorizes the Board to grant PCUs. Each PCU carries a notional monetary value designated by the Board at the date of grant and offers the Participant the opportunity to receive a specified monetary Award upon successfully attaining certain future service-based and performance-based conditions set out by the Board at the date of grant, plus any additional provisions and restrictions as the Board may determine.
- b. **Award Agreement.** Each PCU grant shall be evidenced by an Award Agreement stating the number of PCUs granted, the designated value of each PCU, the service-based vesting requirements, the performance-based vesting requirement(s) and any other associated restrictions or conditions, and the method of settlement.
- c. **Date of Grant.** The date of grant of a PCU will be the date on which the Board makes the determination to grant such PCU. Unless specified otherwise by the Board, PCUs are granted after the financial results for each fiscal year have been approved by the Board. The Award Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the PCU.
- d. **Vesting.** Unless otherwise provided in the Award Agreement, each PCU is subject to two or more vesting conditions. Upon granting of PCUs, the Board shall determine:

- i. **Service-based Requirement.** The period the Participant must be in continuous service to the Company to be eligible to receive PCU Awards subject to achievement of performance-based criteria. Unless specified otherwise by the Board, one hundred percent (100%) of the PCUs granted vest upon expiry of the Company's second fiscal year following the fiscal year in which the PCUs were granted.
- ii. **Performance-based Requirement(s).** The performance condition(s) to be met for the Participant to vest in PCU Awards upon fulfilling the service-based vesting requirement. Actual performance realized relative to the goals or criteria established at the date of grant will be measured over a three-year Performance Period expiring at the end of the second fiscal year following the year in which the PCUs were granted.
- iii. **Performance Modifier(s).** A modifier for each applicable performance condition to determine the number of PCU Awards that are earned relative to the performance level(s) achieved. The formula for determining the Performance Modifier is set out by the Board for each grant. This Modifier, which will range from 0.0x to a maximum of 1.5x unless specified otherwise by the Board, is applied to the original number of PCUs granted to calculate the number of PCUs vested and earned.
- e. **Term.** Unless specified otherwise by the Board at the time of grant, PCUs have a notional term of three years, and expire at the end of the second Fiscal Year following the fiscal year in which they were granted.
- f. **Form and Timing of Settlement.** The Board, at its sole discretion, may settle vested PCUs in Shares, cash, or a combination of both, and will determine at the time of grant the timing of settlement of vested PCUs (consistent with the requirements of Section 409A of the Code to avoid adverse tax consequences thereunder, if applicable), in each case, as set forth in the Award Agreement.
- g. **Separation from Service.** In the event a Participant's service with the Company ceases prior to completion of the vesting period, PCUs granted to the Participant shall expire and be forfeited immediately; *provided, however*, that the Board shall have the absolute discretion to accelerate the vesting date. Should the Board choose to accelerate vesting on PCUs granted, performance vesting conditions will be waived.

11. OTHER EQUITY AWARDS

- a. The Board may grant Other Equity-Based Awards under the Plan, denominated in Shares or based upon the value or otherwise related to the Shares, to Eligible Participants, alone or in tandem with other Awards, in such amounts and, dependent on such other conditions as the Board shall from time to time in its sole discretion determine. Each Other Equity-Based Award granted under the Plan shall be evidenced by an Award Agreement and shall be subject to such conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement.

12. GENERAL TERMS APPLICABLE TO ALL AWARDS

- a. **Withholding Taxes.** The Company and its Subsidiaries and Affiliates shall be entitled to withhold, or require the Participant to remit to the Company or one or more of its Subsidiaries or Affiliates, as applicable, an amount sufficient to satisfy Tax-Related Items attributable to any Awards. The Company may defer making payment or delivery of Shares under an Award if any such Tax-Related Items may be pending unless and until indemnified to its satisfaction, and the Company shall have no liability to any Participant for exercising the foregoing right. The Board may, in its sole discretion and subject to such rules as it may adopt, permit or require a Participant to pay all or a portion of the Tax-Related Items arising in connection with an Award by, without limitation: (i) having the Participant pay an amount in cash (by check or wire transfer), (ii) having the Company withhold Shares otherwise issuable pursuant to the Award that have an aggregate fair market value approximately equal to the amount to be withheld, (iii) the delivery of Shares (which are not subject

to any pledge or other security interest) that have been both held by the Participant and vested for at least six (6) months (or such other period as established from time to time by the Board to avoid adverse accounting treatment under applicable accounting standards) having an aggregate fair market value approximately equal to the amount to be withheld, (iii) selling Shares issued pursuant to such Award and having the Company withhold from the proceeds of the sale of such Shares, (v) having the Company or a Subsidiary or Affiliate, as applicable, withhold from any cash compensation payable to the Participant, (vi) requiring the Participant to repay the Company or Subsidiary or Affiliate, as applicable, in cash or in Shares, for Tax-Related Items paid on the Participant's behalf, or (vii) any other method of withholding determined by the Board that is permissible under applicable laws.

- b. **No Transferability.** No Award may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Participant, except by will or by the laws of descent and distribution and any such purported assignment, alienation, pledge, attachment, sale, transfer, or encumbrance shall be void and unenforceable against the Company or any Subsidiary or Affiliate.
- c. **Voting and Dividends.** No Participant will have any of the rights of a stockholder with respect to any Shares until the Shares are issued to the Participant.
- d. **Standards of Conduct.** All Awards granted under this Plan, in accordance with applicable law and Board determination of behaviour by Participants to be fraudulent, unethical, or in any other way detrimental to the financial or reputational interests of the Company, will be subject to cancellation or forfeiture, and the recoupment of any gains realized with respect to exercised Awards subject to the provisions of any claw-back policy implemented by the Company, including, without limitation, any claw-back policy adopted to comply with the requirements of applicable law, including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act and any rules or regulations promulgated thereunder, whether or not such claw-back policy was in place at the time of grant of an Award, to the extent set forth in such claw-back policy and/or in the applicable Award Agreement.
- e. **No Obligation to Employ.** Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue in the employ of, or service to, or to continue any other relationship with, the Company or limit in any way the right of the Company to terminate Participant's employment or service or other relationship at any time.
- f. **No Trust or Fund Created.** Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between any member of the Company Group, on the one hand, and a Participant or other person, on the other hand. No provision of the Plan or any Award shall require the Company, for the purpose of satisfying any obligations under the Plan, to purchase assets or place any assets in a trust or other entity to which contributions are made or otherwise to segregate any assets, nor shall the Company be obligated to maintain separate bank accounts, books, records or other evidence of the existence of a segregated or separately maintained or administered fund for such purposes. Participants shall have no rights under the Plan other than as unsecured general creditors of the Company, except that insofar as they may have become entitled to payment of additional compensation by performance of services, they shall have the same rights as other service providers under general law.
- g. **Waiver.** A waiver by the Company of breach of any provision of the Plan shall not operate or be construed as a waiver of any other provision of the Plan, or of any subsequent breach by any Participant.
- h. **Restatement Effective Date; Approval of Plan by Stockholders.** This amended and restated Plan will become effective on the Restatement Effective Date. This amended and restated Plan shall be submitted for the approval of the Company's stockholders within twelve (12) months after the date on which the Board first adopts this amended and restated Plan. Such stockholder approval will be obtained in the manner and to the degree required under applicable laws. If this amended and restated Plan is not approved by the Company's stockholders, this amended and restated Plan will

not become effective, no Awards will be granted under this amended and restated Plan and the Original Plan will continue in full force and effect in accordance with its terms.

- i. **Amendment of Award.** The Board may amend, modify, or terminate any outstanding Award, including by substituting another Award of the same or a different type, changing the exercise or settlement date, and converting an Incentive Stock Option to a Non-Qualified Stock Option. The Participant's consent to such action will be required unless (i) the action, taking into account any related action, does not materially and adversely affect the Participant's rights under the Award, or (ii) the change is permitted pursuant to Section 14 or pursuant to Section 15(d).

13. AMENDMENT OR TERMINATION OF THE PLAN

- a. This Plan shall be in effect until terminated under this Section 13; provided, however, that an Incentive Stock Option may not be granted under the Plan after ten (10) years from the earlier of (i) the date the Board adopted the Plan or (ii) the date the Company's stockholders approved the Plan.
- b. The Board may amend, suspend, or terminate the Plan or any Award granted under the Plan without shareholder approval *provided that*:
 - i. such amendment, suspension or termination is in accordance with applicable laws and the rules of any stock exchange on which the Shares are listed, and
 - ii. no amendment to, suspension of, or termination of the Plan or to an Award granted thereunder will have the effect of impairing, derogating from or otherwise materially adversely affecting the terms of an Award which is outstanding at the time of such amendment without the written consent of the holder of such Award, except to the extent the Board determines, in its sole discretion, that any such action is necessary or desirable to facilitate compliance with applicable laws.
- c. The Board shall obtain shareholder approval if such approval is necessary to comply with applicable law and/or the rules of the stock exchange on which the Common Stock is listed, and of:
 - i. any amendment to the aggregate number of Shares issuable under the Plan,
 - ii. any amendment to the limitations on Shares that may be reserved for issuance, or issued, to insiders,
 - iii. any amendment that would reduce the exercise price of an outstanding Option other than pursuant to a declaration of stock dividends of shares or consolidations, sub-divisions or reclassification of shares, or otherwise, and
 - iv. any amendment that would extend the expiry date of any Option granted under the Plan.
- d. If the Plan is terminated, the provisions of the Plan and any administrative guidelines and other rules and regulations adopted by the Board and in force on the date of termination will continue in effect as long as any Award pursuant thereto remains outstanding.

14. CHANGES IN CAPITAL STRUCTURE

- a. **No Effect on Authority of the Board or Stockholders.** The existence of this Plan and any Awards granted hereunder shall not affect in any way the right or power of the Board or the stockholders of the Company to make or authorize any adjustment, recapitalization, reorganization or other change in the Company's capital structure or its business, any merger or consolidation of the Company, any issue of debt or equity securities ahead of or affecting Common Stock or the rights thereof, the dissolution or liquidation of the Company or any sale, lease, exchange or other disposition of all or any part of its assets or business or any other corporate act or proceeding.

- b. **Adjustments.** In the event of any equity restructuring (within the meaning of Financial Accounting Standards Board Accounting Standards Codification Topic 718, Compensation—Stock Compensation or any successor or replacement accounting standard) that causes the per share value of Shares to change, such as a stock dividend, stock split, spinoff, rights offering or recapitalization through an extraordinary cash dividend, the number, class and type of securities available under this Plan shall be adjusted and all outstanding Awards shall be adjusted by the Committee in accordance with Section 409A of the Code. In the event of any other change in corporate capitalization, including a merger, consolidation, reorganization, or partial or complete liquidation of the Company, such equitable adjustments described in the foregoing sentence may be made as determined to be appropriate and equitable by the Committee to prevent dilution or enlargement of rights of Participants.
- c. **Change in Control.** The effect, if any, of a Change in Control on any Awards outstanding at the time immediately prior to such Change in Control will be as specifically set forth in the corresponding Award agreement, or if no such treatment is specified, then such outstanding Awards shall be subject to any agreement of purchase, merger or reorganization that effects such Change in Control, which agreement shall provide for treatment of such Awards.

15. COMPLIANCE WITH APPLICABLE LAWS

- a. **Governing Law.** Unless earlier terminated as provided herein, this Plan will become effective on the Restatement Effective Date and will remain in force until terminated through a resolution by the Board, *provided* that the termination the Plan will not affect Awards then outstanding, and the terms and conditions of the Plan shall continue to apply to such Awards. This Plan and all Awards granted hereunder will be governed by and construed in accordance with the laws of the State of Delaware.
- b. **Securities Law and Other Regulatory Compliance.** An Award will not be effective unless such Award is in compliance with all applicable U.S. and foreign federal and state securities and exchange control and other laws, rules, and regulations of any governmental body, and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates for Shares under this Plan prior to: (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable and/or (b) completion of any registration or other qualification of such Shares under any state, federal, or foreign law or ruling of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the registration, qualification, or listing requirements of any foreign or state securities laws, exchange control laws, stock exchange, or automated quotation system, and the Company will have no liability for any inability or failure to do so.
- c. **Severability.** If any provision of the Plan or any Award or Award Agreement is or becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Board, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Board, materially altering the intent of the Plan or the Award, such provision shall be construed or deemed stricken as to such jurisdiction, person or Award and the remainder of the Plan and any such Award shall remain in full force and effect.
- d. **Section 409A of the Code.**
 - i. Notwithstanding any provision of the Plan or any Award Agreement to the contrary, it is intended that the provisions of the Plan comply with, or be exempt from, Section 409A of the Code, and all provisions of the Plan and Award Agreements shall be construed and interpreted in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A of the Code. Each Participant is solely responsible and liable for the

satisfaction of all taxes and penalties that may be imposed on or in respect of such Participant in connection with the Plan and Award Agreements (including any taxes and penalties under Section 409A of the Code), and neither the Service Recipient nor any other member of the Company Group shall have any obligation to indemnify or otherwise hold such Participant (or any beneficiary) harmless from any or all of such taxes or penalties. With respect to any Award that is considered “deferred compensation” subject to Section 409A of the Code, references in the Plan to “termination of employment” (and substantially similar phrases) shall mean “separation from service” within the meaning of Section 409A of the Code. For purposes of Section 409A of the Code, each of the payments that may be made in respect of any Award granted under the Plan is designated as a separate payment.

- ii. Notwithstanding anything in the Plan or any Award Agreement to the contrary, if a Participant is a “specified employee” within the meaning of Section 409A(a)(2)(B)(i) of the Code, no payments in respect of any Awards that are “deferred compensation” subject to Section 409A of the Code and which would otherwise be payable on the date of or a date or period that is by reference to the Participant’s “separation from service” (as defined in Section 409A of the Code) shall be made to such Participant prior to the date that is six (6) months after the date of such Participant’s “separation from service” or, if earlier, the date of the Participant’s death. Unless the Award Agreement provides otherwise, following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest date permitted under Section 409A of the Code that is also a business day.
- iii. Unless otherwise provided by the Board in an Award Agreement or otherwise, in the event that the timing of payments in respect of any Award (that would otherwise be considered “deferred compensation” subject to Section 409A of the Code) would be accelerated upon the occurrence of (A) a Change in Control, no such acceleration shall be permitted unless the event giving rise to the Change in Control satisfies the definition of a change in the ownership or effective control of a corporation, or a change in the ownership of a substantial portion of the assets of a corporation pursuant to Section 409A of the Code; or (B) a Disability, no such acceleration shall be permitted unless the Disability also satisfies the definition of “Disability” pursuant to Section 409A of the Code.

16. DEFINITIONS

In addition to the capitalized terms defined throughout the Plan, the following capitalized terms shall have the corresponding meanings set forth in this Section:

- a. **“Affiliate”** means any Person that directly or indirectly controls, is controlled by or is under common control with the Company. The term “control” (including, with correlative meaning, the terms “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting or other securities, by contract or otherwise.
- b. **“Award”** means any Option, Restricted Share Unit, Performance Share Unit, Performance Cash Unit or Other Equity-Based Awards granted under the Plan.
- c. **“Award Agreement”** means the written or electronic agreement between the Company and the Participant setting forth the terms and conditions of each Award, and country-specific appendix thereto for grants to non-U.S. Participants, which will be in substantially a form that the Committee has from time to time approved and will comply with and be subject to the terms and conditions of this Plan.
- d. **“Blackout Period”** means a period in which the trading of Shares or other securities of the Company is restricted under the Company’s Corporate Disclosure, Confidentiality and Securities Trading Policy, or under any similar policy of the Company then in effect.

- e. **“CDI”** means CHESSESS depository interests (or any successor securities) over Common Stock, as defined by the operating rules of the settlement facility provided by ASX Settlement Pty Limited ACN 008 504 532.
- f. **“Change in Control”** means:
- i. the Incumbent Directors cease for any reason to constitute a majority of the Board;
 - ii. the sale, lease, transfer, conveyance or other disposition, in one transaction or a series of related transactions, of all or substantially all of the assets of the Company,
 - iii. the sale, transfer, conveyance or other disposition, in one transaction or a series of related transactions, of the outstanding equity securities of the Company (other than an offering of Common Stock to the general public through a registration statement filed with the Securities and Exchange Commission),
 - iv. the merger or consolidation of the Company with another Person,
- in each case in clauses (iii) and (iv) above under circumstances in which the holders of the voting power of outstanding equity securities of the Company, immediately prior to such transaction, are no longer, in the aggregate, the Beneficial Owners, directly or indirectly through one or more intermediaries, of more than fifty percent (50%) of the voting power of the outstanding equity securities of the surviving or resulting corporation or acquirer, as the case may be, immediately following such transaction. A sale (or multiple related sales) of one or more Subsidiaries (whether by way of merger, consolidation, reorganization or sale of all or substantially all of the assets or securities) which constitutes all or substantially all of the consolidated assets of the Company shall be deemed a Change in Control.
- g. **“Code”** means the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.
- h. **“Committee”** means the Compensation Committee of the Board, or if no such committee shall be in existence at any relevant time, the term “Committee” for purposes of the Plan shall mean the Board.
- i. **“Common Stock”** means the common stock of the Company, par value USD 0.01 per share (and any stock or other securities into which such Common Stock may be converted or into which it may be exchanged).
- j. **“Dividend Equivalent Right”** means a right to receive the equivalent value of dividends paid on the Shares with respect to Shares underlying an Award that is a full-value award prior to settlement of the Award.
- k. **“Eligible Participant”** means any person who has been designated by the Board to participate in the Plan and is eligible to receive an Award by virtue of their status as:
- i. An employee of the Company or any Affiliate,
 - ii. An officer or Board member of the Company or any Affiliate, or
 - iii. A consultant or advisor providing services to the Company or any Affiliate who may be offered securities registrable pursuant to a registration statement on Form S-8 under the United States Securities Act of 1933, as amended.
- l. **“Exchange Act”** means the United States Securities Exchange Act of 1934, as amended, and any reference in the Plan to any section of (or rule promulgated under) the Exchange Act shall be deemed to include any rules, regulations or other interpretative guidance under such section or rule, and any amendments or successor provisions to such section, rules, regulations or guidance.

- m. **“Fair Market Value”** means, as of any date, the value of a Share determined as follows: (a) if the Common Stock is listed on any established stock exchange, its Fair Market Value will be the closing sales price for such Common Stock as quoted on such exchange for such date, or if no sale occurred on such date, the last day preceding such date during which a sale occurred, as reported in The Wall Street Journal or another source the Committee deems reliable; (b) if the Common Stock is not traded on a stock exchange but is quoted on a national market or other quotation system, the closing sales price on such date, or if no sales occurred on such date, then on the last date preceding such date during which a sale occurred, as reported in The Wall Street Journal or another source the Committee deems reliable; or (c) without an established market for the Common Stock, the Committee will determine the Fair Market Value in its discretion.
- n. **“Fiscal Year”** means the twelve-month period commencing July 1st and ending June 30th of the following calendar year.
- o. **“Greater than 10% Stockholder”** means an individual then owning (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or its parent or subsidiary corporation, as defined in Section 424(e) and (f) of the Code, respectively.
- p. **“Incentive Stock Option”** means an Option intended to qualify as an “incentive stock option” as defined in Section 422 of the Code.
- q. **“Incumbent Directors”** means, for any period of 12 consecutive months, individuals who, at the beginning of such period, constitute the Board together with any new members of the Board whose election or nomination for election to the Board was approved by a vote of at least a majority (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director without objection to such nomination) of the members of the Board then still in office who either were members of the Board at the beginning of the 12-month period or whose election or nomination for election was previously so approved, or was made pursuant to an agreement to which the Company is a party as of the date hereof. No individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to members of the Board or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board shall be an Incumbent Director.
- r. **“Non-Employee Director”** means a director who is not also an Employee of the Company or Affiliate.
- s. **“Non-Qualified Stock Option”** means an Option, or portion thereof, not intended or not qualifying as an Incentive Stock Option.
- t. **“Participant”** means an Eligible Participant who has been selected to participate in the Plan and has been granted an Award pursuant to the Plan.
- u. **“Performance Period”** means one or more periods of time, which may be of varying and overlapping durations, as the Committee may select, over which the attainment of one or more performance conditions will be measured for the purpose of determining a Participant’s right to, and the payment of, a PSU or PCU Award.
- v. **“Person”** means any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act).
- w. **“Qualifying Director”** means a person who is with respect to actions intended to obtain an exemption from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 under the Exchange Act, a “non-employee director” within the meaning of Rule 16b-3 under the Exchange Act.
- x. **“Restatement Effective Date”** means the date on which the Company’s stockholders approve this amended and restated Plan.

- y. **“Separation from Service”** means the cessation of a Participant’s employment or service, as applicable, for any reason, including death of the Participant.
- z. **“Subsidiary”** means, with respect to any specified Person, any corporation, association or other business entity of which more than 50% of the total voting power of shares of such entity’s voting securities (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof).
- aa. **“Tax-Related Items”** means any U.S. federal, state, and/or local taxes and/or any non-U.S. taxes (including, without limitation, income tax, social insurance contributions (or similar contributions), payroll tax, fringe benefits tax, payment on account, employment tax, stamp tax and any other tax or tax-related item related to participation in the Plan and legally applicable to a Participant), including any employer liability for which the Participant is liable pursuant to applicable laws or the applicable Award Agreement.