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**Rev 07/22**

[Company Name]

Action by Unanimous Written Consent

OF THE BOARD OF DIRECTORS

In accordance with Section 141(f) of the Delaware General Corporation Law and the Bylaws of [Company Name], a Delaware corporation (the “Company”), the undersigned, constituting all of the directors of the Company, hereby take the following actions and adopt the following resolutions by unanimous written consent without a meeting:

1. **Valuation Determination**

[*Use only if No Valuation Report Because only Granting Restricted Stock:* **RESOLVED:** That the Board, having considered all available information material to the valuation of the Company’s Common Stock, including, but not limited to, the value of the Company’s tangible and intangible assets, the present value of anticipated future cash flows of the Company, the market value of similar companies engaged in a substantially similar business, particularly those which are at similar stages of development, recent arm’s length transactions involving the Company’s Common Stock, and other relevant factors such as control premiums or discounts for lack of marketability, hereby determines in good faith that the fair market value of one share of the Company’s Common Stock is $\_\_\_\_\_\_\_\_\_\_ per share as of the date hereof.]

**OR**

[*Add if Using either of the Two Options Below Referencing a Report:* **WHEREAS:** The Company engaged \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Valuation Firm”), who is independent from, and not affiliated with, the Company, to provide an appraisal of the fair market value of the Company’s Common Stock as of [Date] (the “Valuation Date”).

[*Use if Approving Valuation Report for First Time:* **WHEREAS:** The Valuation Firm has provided the Company with a valuation report attached hereto as Attachment I (the “Valuation Report”), which concludes that the valuation of the Company’s Common Stock as of the Valuation Date is $\_\_\_\_\_\_\_\_\_\_ per share, and this Valuation Report has been provided to the Board.

**RESOLVED:** That the Board hereby determines that the factual bases set forth in the Valuation Report are materially accurate and after consideration and review of the Valuation Report, the Board hereby accepts the valuation of the fair market value of the Company’s Common Stock as set forth in the Valuation Report, and therefore determines the fair market value of the Company’s Common Stock to be $\_\_\_\_\_\_\_\_\_\_ per share as of the Valuation Date, which determination has been made in good faith and based on all of the relevant facts and circumstances as of the Valuation Date and taking into account, to the extent applicable, some or all of the following factors: the value of the Company’s tangible and intangible assets, the present value of anticipated future cash-flows of the Company, the market value of similar companies engaged in a substantially similar business, recent arm’s length transactions involving the Company’s Common Stock, and other relevant factors such as control premiums or discounts for lack of marketability (collectively, the “Valuation Factors”).

**RESOLVED FURTHER:** That the Board, having considered all information material to the valuation of the Company’s Common Stock, including but not limited to the Valuation Factors, hereby determines in good faith that (i) no events affecting the Company have occurred between the Valuation Date and the date hereof that would materially affect the fair market value of the Company’s Common Stock, and (ii) the fair market value of the Company’s Common Stock remains $\_\_\_\_\_\_\_\_\_\_ per share as of the date hereof.]

**OR**

[*Previously Approved Past Valuation Report With No Changes:*

**RESOLVED:** That the Board has previously reviewed the written valuation report prepared by the Valuation Firm as of the Valuation Date and determined that $\_\_\_\_\_\_\_\_\_\_ per share was the per share fair market value of the Company’s Common Stock on the Valuation Date, which determination was made in good faith, based on all of the relevant facts and circumstances as of the Valuation Date, including, to the extent applicable, some or all of the following factors: the value of the Company’s tangible and intangible assets, the present value of anticipated future cash-flows of the Company, the market value of similar companies engaged in a substantially similar business, recent arm’s length transactions involving the Company’s Common Stock, and other relevant factors such as control premiums or discounts for lack of marketability (collectively, the “Valuation Factors”).

**RESOLVED FURTHER:** That the Board, having considered all information material to the valuation of the Company’s Common Stock, including, but not limited to, the Valuation Factors, hereby determines in good faith that (i) no events affecting the Company have occurred between the Valuation Date and the date hereof that would materially affect the fair market value of the Company’s Common Stock, and (ii) the fair market value of the Company’s Common Stock remains $\_\_\_\_\_\_\_\_\_\_ per share as of the date hereof.]

1. **Grant of Restricted Stock**

**RESOLVED:** It is in the best interest of the Company to offer stock purchase rights (the “Purchase Rights”) pursuant to the Company’s stock plan set forth opposite the name of such person on Exhibit A to the persons (the “Purchasers”) and in the amounts opposite each person’s name in Exhibit A hereto.

**RESOLVED FURTHER**: That the Board hereby authorizes and approves the Purchase Rights.

**RESOLVED FURTHER:** That, in connection with the granting of the Purchase Rights, each Purchaser shall execute and deliver to the Company a Restricted Stock Purchase Agreement in the form previously approved by the Board.

**RESOLVED FURTHER:** That each Purchaser shall be offered the Purchase Rights at the purchase price per Share set forth opposite the name of such person on Exhibit A, payable in accordance with the terms of the restricted stock purchase agreement executed by such Purchaser.

**RESOLVED FURTHER:** That the shares of Common Stock purchasable upon exercise of the Purchase Rights shall be subject to repurchase by the Company upon termination of a Purchaser’s employment with the Company for any reason, with each such Purchaser’s shares released from the repurchase option on the vesting schedule described in Exhibit A hereto, for so long as the Purchaser remains an employee of or consultant to the Company.

**RESOLVED FURTHER:** That the officers of the Company are authorized to take all actions and execute all documents necessary to carry out the purposes and intent of the foregoing resolutions, including without limitation any actions or documents necessary to qualify or exempt the securities issued hereby under any applicable federal or state securities laws.

1. [**Interested Party Transaction**]

**WHEREAS:** The Purchasers referenced above include \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_.

**WHEREAS:** As a result, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_ have a financial interest in the above grant of Purchase Rights, therefore the offering of the Purchase Rights may be an interested party transaction under Section 144 of the Delaware General Corporation Law.

**WHEREAS:** The Board is aware that \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_ have a financial interest in the Purchase Rights and has been fully apprised of all of the material facts relevant to the acquisition of such Purchase Rights by \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_.

**NOW, THEREFORE, BE IT RESOLVED:** That the Purchase Rights to be granted to \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_ are hereby determined to be [fair, just and reasonable] to the Company within the meaning of Section 144 of the Delaware General Corporation Law[ and [Interested Director Section of Code of Applicable State Law]], and such Purchase Rights are authorized and approved for all purposes, including without limitation with respect to Section 144 of the Delaware General Corporation Law.

1. **Omnibus Resolution**

**RESOLVED:** That each of the officers of the Company is authorized and empowered to take such other actions and sign such other documents as may be necessary or advisable to carry out the intent and accomplish the purposes of the foregoing resolutions.

*[Signature Page Follows]*

In accordance with the Company’s Bylaws, this action may be executed in writing[, or consented to by electronic transmission,] in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same action.

|  |  |  |
| --- | --- | --- |
| Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  [Director 1] |
| Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  [Director 2] |
| Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  [Director 3] |

EXHIBIT A

RESTRICTED STOCK PURCHASERS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name** |  | **Shares & Price** |  | **Stock Plan & Vesting Schedule** |
| [Purchaser Name] |  | \_\_\_\_\_\_\_\_\_\_ shares  $\_\_\_\_\_\_\_\_\_\_ per share |  | [Stock Plan Name] (the “Plan”)  100% of the shares granted shall be subject to vesting (the “Vesting Shares”). \_\_\_\_\_\_\_\_\_\_ of the Vesting Shares vest on [Date] and 1/48th of the Vesting Shares vest each month thereafter[, subject to \_\_\_\_% acceleration (single trigger) upon a Change of Control (as defined in the Plan)] **OR** [, subject to \_\_\_\_% acceleration (double trigger) upon termination of Purchaser’s Continuous Service Status (as defined in the Plan) in connection with or following the consummation of a Change of Control (as defined in the Plan)]. |

[*Use if Approving Valuation Report for First Time:]*

**attachment i**

**valuation report**