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

**FORM S-8
REGISTRATION STATEMENT**
*under
the SECURITIES ACT OF 1933*

DERMTECH, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

84-2870849
(I.R.S. Employer
Identification No.)

**11099 N. Torrey Pines Road, Suite 100
La Jolla, CA 92037**
(Address, Including Zip Code, of Principal Executive Offices)

DermTech, Inc. Amended and Restated 2010 Stock Plan
(Full Title of the Plan)

**Kevin Sun
Chief Financial Officer
DermTech, Inc.**

**11099 N. Torrey Pines Road, Suite 100
La Jolla, CA 92037
(858) 450-4222**
(Name, Address and Telephone Number, Including Area Code, of Agent For Service)

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See definition 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 Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.0001 par value	880,212 shares (1)	(2)	\$8,514,761.70 (2)	\$1,105.22

- (1) The number of shares of common stock, par value \$0.0001 per share, or Common Stock, stated above consists of additional shares of Common Stock available for issuance under the DermTech, Inc. Amended and Restated 2010 Stock Plan, or the Plan, by operation of the Plan's "evergreen" provision. The maximum number of shares which may be sold pursuant to the Plan is subject to adjustment in accordance with certain anti-dilution and other provisions of the Plan. Accordingly, pursuant to Rule 416 under the Securities Act of 1933, as amended, or the Securities Act, this Registration Statement covers, in addition to the number of shares stated above, an indeterminate number of shares which may be subject to grant or otherwise issuable after the operation of any such anti-dilution and other provisions.
- (2) This calculation is made solely for the purpose of determining the registration fee pursuant to the provisions of Rule 457(c) and (h) under the Securities Act as follows: (i) in the case of shares of Common Stock which may be purchased upon exercise of outstanding options, the fee is calculated on the basis of the weighted-average exercise price of the outstanding options; and (ii) in the case of shares of Common Stock for which options and stock-based awards have not yet been granted and the purchase price of which is therefore unknown, the fee is calculated on the basis of the average of the high and low sale prices per share of the Common Stock on the Nasdaq Capital Market as of a date (January 14, 2020) within five business days prior to filing this Registration Statement. The chart below details the calculations of the registration fee:

Securities	Number of Shares	Offering Price Per Share	Aggregate Offering Price
Shares issuable upon the exercise of outstanding options granted under the Plan	327,978	\$ 9.73(2)(i)	\$3,191,225.94
Shares reserved for future grant under the Plan	552,234	\$ 9.64(2)(ii)	\$5,323,535.76
Proposed Maximum Aggregate Offering Price			\$8,514,761.70
Registration Fee			\$ 1,105.22

EXPLANATORY NOTE

This Registration Statement registers an aggregate of 880,212 additional shares of the Registrant's common stock reserved under the Plan, representing an increase of 880,212 shares reserved under the Plan effective January 1, 2020 by operation of the Plan's "evergreen" provision. This Registration Statement registers additional securities of the same class as other securities for which a registration statement filed on Form S-8 of the Registrant relating to an employee benefit plan is effective (File No. 333-234745). The information contained in the Registrant's registration statement on Form S-8 (File No. 333-234745) is hereby incorporated by reference pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8. Exhibits.

The following exhibits are filed as a part of or incorporated by reference into this Registration Statement:

Exhibit Number	Exhibit Description	Filed Herewith	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/Reg. Number
4.1	Amended and Restated Certificate of Incorporation of the Registrant, included as Annex D to the proxy statement/prospectus/information statement forming a part of the referenced filing.		S-4/A	08/7/2019	333-232181
4.2	Form of Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Registrant, included as Annex F to the proxy statement/prospectus/information statement forming a part of the referenced filing.		S-4/A	08/7/2019	333-232181
4.3	Form of Certificate of Designation of Preferences Rights and Limitations of Series A Convertible Preferred Stock of the Registrant		S-4/A	08/2/2019	333-232181
4.4	Bylaws of the Registrant, included as Annex C to the proxy statement/prospectus/information statement forming a part of the referenced filing.		S-4/A	08/7/2019	333-232181
5.1	Opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. as to the legality of the securities being registered	X			
23.1	Consent of KPMG LLP	X			
23.2	Consent of Marcum LLP	X			
23.3	Consent of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (included in Exhibit 5.1)	X			
24.1	Powers of Attorney (included on signature page to this Registration Statement)	X			
99.1	Amended and Restated 2010 Stock Plan of the Registrant, included as Annex E to the proxy statement/prospectus/information statement forming a part of the referenced filing.		S-4/A	08/7/2019	333-232181
99.2	2020 Form of Stock Option Agreement and Forms of Stock Option Grant Notice Under Amended and Restated 2010 Stock Plan.	X			
99.3	2020 Form of Restricted Stock Unit Agreement and Forms of Restricted Stock Unit Award Grant Notice Under Amended and Restated 2010 Stock Plan.	X			

SIGNATURES

The Registrant. Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in San Diego, California on January 17, 2020.

DERMTECH, INC.

By: /s/ Kevin Sun

Name: Kevin Sun

Title: Chief Financial Officer

Each person whose signature appears below constitutes and appoints John Dobak, M.D. and Kevin Sun, and each of them singly, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them singly, for him or her and in his or her name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement on Form S-8 of DermTech, Inc., and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting to the attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in or about the premises, as full to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that the attorneys-in-fact and agents or any of each of them or their substitute may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ John Dobak, M.D.</u> John Dobak, M.D.	Chief Executive Officer and Director (Principal Executive Officer)	January 17, 2020
<u>/s/ Kevin Sun</u> Kevin Sun	Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	January 17, 2020
<u>/s/ Matt Posard</u> Matt Posard	Director	January 17, 2020
<u>/s/ Cynthia Collins</u> Cynthia Collins	Director	January 17, 2020
<u>/s/ Enrico Picozza</u> Enrico Picozza	Director	January 17, 2020
<u>/s/ Herm Rosenman</u> Herm Rosenman	Director	January 17, 2020
<u>/s/ Gary Jacobs</u> Gary Jacobs	Director	January 17, 2020
<u>/s/ Gene Salkind, M.D.</u> Gene Salkind, M.D.	Director	January 17, 2020
<u>/s/ Scott Pancoast</u> Scott Pancoast	Director	January 17, 2020



One Financial Center
 Boston, MA 02111
 617 542 6000
 mintz.com

January 17, 2020

DermTech, Inc.
 11099 N. Torrey Pines Road, Suite 100
 La Jolla, CA 92037

Ladies and Gentlemen:

We have acted as legal counsel to DermTech, Inc., a Delaware corporation (the “Company”), in connection with the preparation and filing with the Securities and Exchange Commission (the “Commission”) of a Registration Statement on Form S-8 (the “Registration Statement”), pursuant to which the Company is registering the issuance under the Securities Act of 1933, as amended (the “Securities Act”), of an aggregate of 880,212 shares (the “Shares”) of the Company’s common stock, \$0.0001 par value per share, in accordance with the terms of the DermTech, Inc. Amended and Restated 2010 Stock Plan (the “Plan”). This opinion is being rendered in connection with the filing of the Registration Statement with the Commission.

In connection with this opinion, we have examined the Company’s Amended and Restated Certificate of Incorporation and Bylaws, each as currently in effect; such other records of the corporate proceedings of the Company and certificates of the Company’s officers as we have deemed relevant; and the Registration Statement and the exhibits thereto.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such copies, and the truth and correctness of any representations and warranties contained therein. In addition, we have assumed that the Company will receive any required consideration in accordance with the terms of the Plan.

Our opinion expressed herein is limited to the General Corporation Law of the State of Delaware and we express no opinion with respect to the laws of any other jurisdiction. No opinion is expressed herein with respect to the qualification of the Shares under the securities or blue sky laws of any state or any foreign jurisdiction.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

BOSTON

LONDON

LOS ANGELES

NEW YORK

SAN DIEGO

SAN FRANCISCO

WASHINGTON

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.

Based upon the foregoing, we are of the opinion that the Shares, when issued and delivered in accordance with the terms of the Plan, will be validly issued, fully paid and non-assessable.

We understand that you wish to file this opinion with the Commission as an exhibit to the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and we hereby consent thereto. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Consent of Independent Registered Public Accounting Firm

The Board of Directors
DermTech, Inc.:

We consent to the use of our report dated April 22, 2019, except for the reverse stock split described in Note 9, which is as of August 29, 2019, with respect to the balance sheets of DermTech, Inc. as of December 31, 2018 and 2017, and the related statements of operations and comprehensive loss, convertible preferred stock and stockholders' (deficit) equity, and cash flows for each of the years in the two-year period ended December 31, 2018, and the related notes (collectively, the "financial statements"), incorporated herein by reference. Our report dated April 22, 2019 contains an explanatory paragraph that states that the Company has suffered recurring losses from operations and has a net capital deficiency, which raise substantial doubt about its ability to continue as a going concern. The financial statements do not include any adjustments that might result from the outcome of that uncertainty.

/s/ KPMG LLP

San Diego, California
January 17, 2020

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of DermTech, Inc. on Form S-8, of our report dated June 14, 2019, with respect to our audits of the financial statements of Constellation Alpha Capital Corp. as of March 31, 2019 and 2018 and for each of the two years in the period ended March 31, 2019, appearing in the Annual Report on Form 10-K of Constellation Alpha Capital Corp. for the year ended March 31, 2019. We were dismissed as auditors on September 4, 2019 and, accordingly, we have not performed any audit or review procedures with respect to any financial statements appearing in such Prospectus for the periods after the date of our dismissal.

/s/ Marcum LLP

Marcum LLP
New York, NY
January 17, 2020

**DERMTECH, INC.
STOCK OPTION GRANT NOTICE**

**Stock Option Grant under the
DermTech, Inc. Amended and Restated 2010 Stock Plan**

1. Name and Address of Participant: _____

2. Date of Option Grant: _____
3. Type of Grant: _____
4. Maximum Number of Shares for which this Option is exercisable: _____
5. Exercise (purchase) price per share: _____
6. Option Expiration Date: _____
7. Vesting Start Date: _____
8. Vesting Schedule: This Option shall become exercisable (and the Shares issued upon exercise shall be vested) as follows provided the Participant is an Employee, Director or Consultant of the Company or of a Participating Company on the applicable vesting date set forth below (provided that the number of Shares vesting on each date shall be rounded down to the nearest whole number, whilst the number of Shares vesting on the final vesting date shall be the remaining unvested balance of the Shares):

Number of Shares

Vesting Date

The Company and the Participant acknowledge receipt of this Stock Option Grant Notice and agree to the terms of the Stock Option Agreement attached hereto and incorporated by reference herein, the DermTech, Inc. Amended and Restated 2010 Stock Plan and the terms of this Option Grant as set forth above.

DERMTECH, INC.

By: _____

Name: _____

Title: _____

Participant

DERMTECH, INC.**EXECUTIVE STOCK OPTION GRANT NOTICE****Stock Option Grant under the
DermTech, Inc. Amended and Restated 2010 Stock Plan**

1. Name and Address of Participant: _____

2. Date of Option Grant: _____
3. Type of Grant: _____
4. Maximum Number of Shares for which this Option is exercisable: _____
5. Exercise (purchase) price per share: _____
6. Option Expiration Date: _____
7. Vesting Start Date: _____
8. Vesting Schedule: This Option shall become exercisable (and the Shares issued upon exercise shall be vested) as follows provided the Participant is an Employee, Director or Consultant of the Company or of a Participating Company on the applicable vesting date set forth below (provided that the number of Shares vesting on each date shall be rounded down to the nearest whole number, whilst the number of Shares vesting on the final vesting date shall be the remaining unvested balance of the Shares):

Number of SharesVesting Date

Notwithstanding the foregoing, in the event Participant (i) is terminated other than for Cause (as defined below), death or Disability (as defined in the DermTech, Inc. Amended and Restated 2010 Stock Plan (the “**Plan**”)) or (ii) resigns for Good Reason (as defined below) during a period beginning three months prior to and ending 18 months following a Change in Control (as defined in the Plan) the portion of this Option then unvested shall vest in full upon such termination or resignation.

“Cause” shall, for purposes of this Executive Stock Option Grant Notice, have (i) the meaning assigned to such term in Participant’s employment agreement, written offer of employment or other applicable written agreement between the Participant and a Participating Company, or (ii) if not defined in such agreement, the meaning assigned to such term in the Plan.

“Good Reason” shall, for purposes of this Executive Stock Option Grant Notice, (i) have the meaning assigned to such term in Participant’s employment agreement, written offer of employment or other applicable written agreement between the Participant and a Participating Company, or (ii) if not defined in such agreement, mean the occurrence of any of the following events or conditions, without Participant’s express written consent: (A) a material reduction in Participant’s base salary or bonus potential; (B) a material reduction in Participant’s duties, responsibilities or authority, including, without limitation, changes in Participant’s reporting structure resulting from a Change in Control (as defined in the Plan); (C) a change in geographic location at which Participant must perform services that results in an increase in the one-way commute of Participant by more than 50 miles; or (D) a successor

of the Company does not assume Participant’s employment agreement, written offer of employment or other similar agreement between the Participant and a Participating Company; provided that Participant has provided notice to the Company of the condition giving rise to “Good Reason” within one hundred and twenty (120) days of Participant’s knowledge of the existence of such condition, and the Company has not remedied such condition in the thirty (30) days following such notice.

The Company and the Participant acknowledge receipt of this Executive Stock Option Grant Notice and agree to the terms of the Stock Option Agreement attached hereto and incorporated by reference herein, the Plan and the terms of this Option Grant as set forth above.

DERMTECH, INC.

By: _____

Name: _____

Title: _____

Participant

DERMTECH, INC.

NON-EMPLOYEE DIRECTOR STOCK OPTION GRANT NOTICE

Stock Option Grant under the DermTech, Inc. Amended and Restated 2010 Stock Plan

- | | |
|--|----------------------------|
| 1. Name and Address of Participant: | |
| 2. Date of Option Grant: | |
| 3. Type of Grant: | Non-Qualified Stock Option |
| 4. Maximum Number of Shares for which this Option is exercisable: | |
| 5. Exercise (purchase) price per share: | |
| 6. Option Expiration Date: | |
| 7. Vesting Start Date: | |
| 8. Vesting Schedule: This Option shall become exercisable (and the Shares issued upon exercise shall be vested) as follows provided the Participant is an Employee, Director or Consultant of the Company or of a Participating Company on the applicable vesting date set forth below (provided that the number of Shares vesting on each date shall be rounded down to the nearest whole number, whilst the number of Shares vesting on the final vesting date shall be the remaining unvested balance of the Shares): | |
| <u>Number of Shares</u> | <u>Vesting Date</u> |

Notwithstanding the foregoing, in the event of a Change in Control (as defined in the DermTech, Inc. Amended and Restated 2010 Stock Plan (the “**Plan**”)) while the Participant is a Director of the Company the portion of this Option then unvested shall vest in full immediately prior to the Change in Control.

The Company and the Participant acknowledge receipt of this Non-Employee Director Stock Option Grant Notice and agree to the terms of the Stock Option Agreement attached hereto and incorporated by reference herein, the Plan and the terms of this Option Grant as set forth above.

DERMTECH, INC.

By: _____

Name: _____

Title: _____

Participant

THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAVE NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102, OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

**DERMTECH, INC.
STOCK OPTION AGREEMENT**

DermTech, Inc. has granted to the Participant named in the *Notice of Grant of Stock Option* (the “**Grant Notice**”) to which this Stock Option Agreement (the “**Option Agreement**”) is attached an option (the “**Option**”) to purchase certain shares of Stock upon the terms and conditions set forth in the Grant Notice and this Option Agreement. The Option has been granted pursuant to and shall in all respects be subject to the terms and conditions of the DermTech, Inc. Amended and Restated 2010 Stock Plan (the “**Plan**”), as amended to the Date of Grant, the provisions of which are incorporated herein by reference. By signing the Grant Notice, the Participant: (a) acknowledges receipt of, and represents that the Participant has read and is familiar with, the Grant Notice, this Option Agreement and the Plan, (b) accepts the Option subject to all of the terms and conditions of the Grant Notice, this Option Agreement and the Plan, and (c) agrees to accept as binding, conclusive and final all decisions or interpretations of the Board upon any questions arising under the Grant Notice, this Option Agreement or the Plan.

1. DEFINITIONS AND CONSTRUCTION.

1.1 **Definitions.** Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Grant Notice or the Plan.

1.2 **Construction.** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of this Option Agreement. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term “or” is not intended to be exclusive, unless the context clearly requires otherwise.

2. TAX CONSEQUENCES.

2.1 **Tax Status of Option.** This Option is intended to have the tax status designated in the Grant Notice.

(a) **Incentive Stock Option.** If the Grant Notice so designates, this Option is intended to be an Incentive Stock Option within the meaning of Section 422(b) of the Code, but the Company does not represent or warrant that this Option qualifies as such. The Participant should consult with the Participant’s own tax advisor regarding the tax effects of this Option and the requirements necessary to obtain favorable income tax treatment under Section 422 of the Code, including, but not limited to, holding period requirements. (NOTE TO PARTICIPANT: If the Option is exercised more than three (3) months after the date on which you cease to be an Employee (other than by reason of your death or permanent and total disability as defined in Section 22(e)(3) of the Code), the Option will be treated as a Nonstatutory Stock Option and not as an Incentive Stock Option to the extent required by Section 422 of the Code.)

(b) **Nonstatutory Stock Option.** If the Grant Notice so designates, this Option is intended to be a Nonstatutory Stock Option and shall not be treated as an Incentive Stock Option within the meaning of Section 422(b) of the Code.

2.2 ISO Fair Market Value Limitation. *If the Grant Notice designates this Option as an Incentive Stock Option*, then to the extent that the Option (together with all Incentive Stock Options granted to the Participant under all stock option plans of the Participating Company Group, including the Plan) becomes exercisable for the first time during any calendar year for shares having a Fair Market Value greater than One Hundred Thousand Dollars (\$100,000), the portion of such options which exceeds such amount will be treated as Nonstatutory Stock Options. For purposes of this Section, options designated as Incentive Stock Options are taken into account in the order in which they were granted, and the Fair Market Value of stock is determined as of the time the option with respect to such stock is granted. If the Code is amended to provide for a different limitation from that set forth in this Section, such different limitation shall be deemed incorporated herein effective as of the date required or permitted by such amendment to the Code. If the Option is treated as an Incentive Stock Option in part and as a Nonstatutory Stock Option in part by reason of the limitation set forth in this Section, the Participant may designate which portion of such Option the Participant is exercising. In the absence of such designation, the Participant shall be deemed to have exercised the Incentive Stock Option portion of the Option first. Separate certificates representing each such portion shall be issued upon the exercise of the Option. (NOTE TO PARTICIPANT: If the aggregate Exercise Price of the Option (that is, the Exercise Price multiplied by the Number of Option Shares) plus the aggregate exercise price of any other Incentive Stock Options you hold (whether granted pursuant to the Plan or any other stock option plan of the Participating Company Group) is greater than \$100,000, you should contact the Chief Financial Officer of the Company to ascertain whether the entire Option qualifies as an Incentive Stock Option.)

3. **ADMINISTRATION.**

All questions of interpretation concerning the Grant Notice, this Option Agreement, the Plan or any other form of agreement or other document employed by the Company in the administration of the Plan or the Option shall be determined by the Board. All such determinations by the Board shall be final, binding and conclusive upon all persons having an interest in the Option, unless fraudulent or made in bad faith. Any and all actions, decisions and determinations taken or made by the Board in the exercise of its discretion pursuant to the Plan or the Option or other agreement thereunder (other than determining questions of interpretation pursuant to the preceding sentence) shall be final, binding and conclusive upon all persons having an interest in the Option. Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has apparent authority with respect to such matter, right, obligation, or election.

4. **EXERCISE OF THE OPTION.**

4.1 Right to Exercise. Except as otherwise provided herein, the Option shall be exercisable as set forth in the Grant Notice and prior to the termination of the Option (as provided in Section 6). In no event shall the Option be exercisable for more shares than the Number of Option Shares, as adjusted pursuant to Section 9.

4.2 Method of Exercise. An Option (or any part or installment thereof) shall be exercised by giving notice (the “**Exercise Notice**”) to the Company or its designee (in a form or manner acceptable to the Board, which may include electronic notice). An electronic Exercise Notice must be digitally signed or authenticated by the Participant in such manner as required by the notice and transmitted to the Company or an authorized representative of the Company (including a third-party administrator designated by the Company). In the event that the Participant is not authorized or is unable to provide an electronic Exercise Notice, the Option shall be exercised by a written Exercise Notice addressed to the Company, which shall be signed by the Participant and delivered in person, by certified or registered mail, return receipt requested, by confirmed facsimile transmission, or by such other means as the Company may permit, to the Company, or an authorized representative of the Company (including a third-party administrator designated by the Company). Each Exercise Notice, whether electronic or written, must convey the Participant’s election to exercise the Option, the number of whole shares of Stock for which the Option is being exercised and such other representations and agreements as to the Participant’s investment intent with respect to such shares as may be required pursuant to the provisions of this Option Agreement. Further, each Exercise Notice must be received by the Company prior to the termination of the Option as set forth in Section 6 and must be accompanied by full payment of the aggregate Exercise Price for the number of shares of Stock being purchased. The Option shall be deemed to be exercised upon receipt by the Company of such electronic or written Exercise Notice and the aggregate Exercise Price.

4.3 Payment of Exercise Price.

(a) **Forms of Consideration Authorized.** Except as otherwise provided below, payment of the aggregate Exercise Price for the number of shares of Stock for which the Option is being exercised shall be made (i) in cash, by check or in cash equivalent, (ii) if permitted by the Company and subject to the limitations contained in Section 4.3(b), by means of (1) a Cashless Exercise or (2) a Net-Exercise; or (iii) by any combination of the foregoing.

(b) **Limitations on Forms of Consideration.** The Company reserves, at any and all times, the right, in the Company's sole and absolute discretion, to establish, decline to approve or terminate any program or procedure providing for payment of the Exercise Price through any of the means described below, including with respect to the Participant notwithstanding that such program or procedures may be available to others.

(i) **Cashless Exercise.** A Cashless Exercise shall be permitted only upon the class of shares subject to the Option becoming publicly traded in an established securities market. A "**Cashless Exercise**" means the delivery of a properly executed Exercise Notice together with irrevocable instructions to a broker in a form acceptable to the Company providing for the assignment to the Company of the proceeds of a sale or loan with respect to shares of Stock acquired upon the exercise of the Option in an amount not less than the aggregate Exercise Price for such shares (including, without limitation, through an exercise complying with the provisions of Regulation T as promulgated from time to time by the Board of Governors of the Federal Reserve System).

(ii) **Net-Exercise.** A "**Net-Exercise**" means the delivery of a properly executed Exercise Notice electing a procedure pursuant to which (1) the Company will reduce the number of shares otherwise issuable to the Participant upon the exercise of the Option by the largest whole number of shares having a Fair Market Value that does not exceed the aggregate Exercise Price for the shares with respect to which the Option is exercised, and (2) the Participant agrees that if the remaining balance of such aggregate Exercise Price is not satisfied by such reduction in the number of whole shares to be issued, that amount will be satisfied by withholding such amount from the Participant's paycheck. Following a Net-Exercise, the number of shares remaining subject to the Option, if any, shall be reduced by the sum of (1) the net number of shares issued to the Participant upon such exercise, and (2) the number of shares deducted by the Company for payment of the aggregate Exercise Price.

4.4 Tax Withholding.

(a) **In General.** At the time the Option is exercised, in whole or in part, or at any time thereafter as requested by a Participating Company, the Participant hereby authorizes withholding from payroll and any other amounts payable to the Participant, and otherwise agrees to make adequate provision for any sums required to satisfy the federal, state, local and foreign tax (including any social insurance) withholding obligations of the Participating Company Group, if any, which arise in connection with the Option. The Company shall have no obligation to deliver shares of Stock until the tax withholding obligations of the Participating Company Group have been satisfied by the Participant.

(b) **Withholding in or Directed Sale of Shares.** The Company shall have the right, but not the obligation, to require the Participant to satisfy all or any portion of a Participating Company's tax withholding obligations upon exercise of the Option by deducting from the shares of Stock otherwise issuable to the Participant upon such exercise a number of whole shares having a fair market value, as determined by the Company as of the date of exercise, not in excess of the amount of such tax withholding obligations determined by the applicable minimum statutory withholding rates. The Company may require the Participant to direct a broker, upon the exercise of the Option, to sell a portion of the shares subject to the Option determined by the Company in its discretion to be sufficient to cover the tax withholding obligations of any Participating Company and to remit an amount equal to such tax withholding obligations to the Company in cash.

4.5 Beneficial Ownership of Shares; Certificate Registration. The Participant hereby authorizes the Company, in its sole discretion, to deposit for the benefit of the Participant with any broker with which the Participant has an account relationship of which the Company has notice any or all shares acquired by the Participant pursuant to the exercise of the Option. Except as provided by the preceding sentence, a certificate for the shares as to which the Option is exercised shall be registered in the name of the Participant, or, if applicable, in the names of the heirs of the Participant.

4.6 Restrictions on Grant of the Option and Issuance of Shares. The grant of the Option and the issuance of shares of Stock upon exercise of the Option shall be subject to compliance with all applicable requirements of federal, state or foreign law with respect to such securities. The Option may not be exercised if the issuance of shares of Stock upon exercise would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Stock may then be listed. In addition, the Option may not be exercised unless (i) a registration statement under the Securities Act shall at the time of exercise of the Option be in effect with respect to the shares issuable upon exercise of the Option or (ii) in the opinion of legal counsel to the Company, the shares issuable upon exercise of the Option may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. **THE PARTICIPANT IS CAUTIONED THAT THE OPTION MAY NOT BE EXERCISED UNLESS THE FOREGOING CONDITIONS ARE SATISFIED. ACCORDINGLY, THE PARTICIPANT MAY NOT BE ABLE TO EXERCISE THE OPTION WHEN DESIRED EVEN THOUGH THE OPTION IS VESTED.** The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any shares subject to the Option shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained. As a condition to the exercise of the Option, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

4.7 Fractional Shares. The Company shall not be required to issue fractional shares upon the exercise of the Option.

5. NONTRANSFERABILITY OF THE OPTION.

During the lifetime of the Participant, the Option shall be exercisable only by the Participant or the Participant's guardian or legal representative. The Option shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. Following the death of the Participant, the Option, to the extent provided in Section 7, may be exercised by the Participant's legal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

6. TERMINATION OF THE OPTION.

The Option shall terminate and may no longer be exercised after the first to occur of (a) the close of business on the Option Expiration Date, (b) the close of business on the last date for exercising the Option following termination of the Participant's Service as described in Section 7, or (c) a Change in Control to the extent provided in Section 8.

7. EFFECT OF TERMINATION OF SERVICE.

7.1 Option Exercisability. The Option shall terminate immediately upon the Participant's termination of Service to the extent that it is then unvested and shall be exercisable after the Participant's termination of Service to the extent it is then vested only during the applicable time period as determined below and thereafter shall terminate.

(a) **Disability.** If the Participant's Service terminates because of the Disability of the Participant, the Option, to the extent unexercised and exercisable for Vested Shares on the date on which the Participant's Service terminated, may be exercised by the Participant (or the Participant's guardian or legal representative) at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(b) **Death.** If the Participant's Service terminates because of the death of the Participant, the Option, to the extent unexercised and exercisable for Vested Shares on the date on which the Participant's Service terminated, may be exercised by the Participant's legal representative or other person who acquired the right to exercise the Option by reason of the Participant's death at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date. The Participant's Service shall be deemed to have terminated on account of death if the Participant dies within three (3) months after the Participant's termination of Service.

(c) **Termination for Cause.** Notwithstanding any other provision of this Option Agreement, if the Participant's Service is terminated for Cause, the Option shall terminate in its entirety and cease to be exercisable immediately upon such termination of Service.

(d) **Other Termination of Service.** If the Participant's Service terminates for any reason, except Disability, death or Cause, the Option, to the extent unexercised and exercisable for Vested Shares by the Participant on the date on which the Participant's Service terminated, may be exercised by the Participant at any time prior to the expiration of three (3) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

7.2 Extension if Exercise Prevented by Law. Notwithstanding the foregoing other than termination of the Participant's Service for Cause, if the exercise of the Option within the applicable time periods set forth in Section 7.1 is prevented by the provisions of Section 4.6, the Option shall remain exercisable until the later of (a) thirty (30) days after the date such exercise first would no longer be prevented by such provisions or (b) the end of the applicable time period under Section 7.1, but in any event no later than the Option Expiration Date.

8. EFFECT OF CHANGE IN CONTROL.

In the event of a Change in Control, except to the extent that the Board determines to settle the Option in accordance with Section 9.1(c) of the Plan, the surviving, continuing, successor, or purchasing corporation or other business entity or parent thereof, as the case may be (the "**Acquiror**"), may, without the consent of the Participant, assume or continue in full force and effect the Company's rights and obligations under all or any portion of the Option or substitute for all or any portion of the Option a substantially equivalent option for the Acquiror's stock. For purposes of this Section, the Option or any portion thereof shall be deemed assumed if, following the Change in Control, the Option confers the right to receive, subject to the terms and conditions of the Plan and this Option Agreement, for each share of Stock subject to such portion of the Option immediately prior to the Change in Control, the consideration (whether stock, cash, other securities or property or a combination thereof) to which a holder of a share of Stock on the effective date of the Change in Control was entitled (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding shares of Stock); provided, however, that if such consideration is not solely common stock of the Acquiror, the Board may, with the consent of the Acquiror, provide for the consideration to be received upon the exercise of the Option for each share of Stock to consist solely of common stock of the Acquiror equal in Fair Market Value to the per share consideration received by holders of Stock pursuant to the Change in Control. If any portion of such consideration may be received by holders of Stock pursuant to the Change in Control on a contingent or delayed basis, the Board may, in its discretion, determine such Fair Market Value per share as of the time of the Change in Control on the basis of the Board's good faith estimate of the present value of the probable future payment of such consideration. The Option shall terminate and cease to be outstanding effective as of the time of consummation of the Change in Control to the extent that the Option is neither assumed or continued by the Acquiror in connection with the Change in Control nor exercised as of the time of the Change in Control. Notwithstanding the foregoing, shares acquired upon exercise of the Option prior to the Change in Control and any consideration received pursuant to the Change in Control with respect to such shares shall continue to be subject to all applicable provisions of this Option Agreement except as otherwise provided herein.

9. ADJUSTMENTS FOR CHANGES IN CAPITAL STRUCTURE.

Subject to any required action by the shareholders of the Company and the requirements of Sections 409A and 424 of the Code to the extent applicable, in the event of any change in the Stock effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, stock dividend, stock split, reverse stock split, split-up, split-off, spin-off, combination of shares, exchange of shares, or similar change in the capital structure of the Company, or in the event of payment of a dividend or distribution to the shareholders of the Company in a form other than Stock (excepting normal cash dividends) that has a material effect on the Fair Market Value of shares of Stock, appropriate and proportionate adjustments shall be made in the number, Exercise Price and kind of shares subject to the Option, in order to prevent dilution or enlargement of the Participant's rights under the Option. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." Any fractional share resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number, and the Exercise Price shall be rounded up to the nearest whole cent. In no event may the Exercise Price be decreased to an amount less than the par value, if any, of the stock subject to the Option. Such adjustments shall be determined by the Board, and its determination shall be final, binding and conclusive.

10. RIGHTS AS A SHAREHOLDER, DIRECTOR, EMPLOYEE OR CONSULTANT.

The Participant shall have no rights as a shareholder with respect to any shares covered by the Option until the date of the issuance of the shares for which the Option has been exercised (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date the shares are issued, except as provided in Section 9. If the Participant is an Employee, the Participant understands and acknowledges that, except as otherwise provided in a separate, written employment agreement between a Participating Company and the Participant, the Participant's employment is "at will" and is for no specified term. Nothing in this Option Agreement shall confer upon the Participant any right to continue in the Service of a Participating Company or interfere in any way with any right of the Participating Company Group to terminate the Participant's Service as a Director, an Employee or Consultant, as the case may be, at any time.

11. NOTICE OF SALES UPON DISQUALIFYING DISPOSITION.

The Participant shall dispose of the shares acquired pursuant to the Option only in accordance with the provisions of this Option Agreement. In addition, *if the Grant Notice designates this Option as an Incentive Stock Option*, the Participant shall (a) promptly notify the Chief Financial Officer of the Company if the Participant disposes of any of the shares acquired pursuant to the Option within one (1) year after the date the Participant exercises all or part of the Option or within two (2) years after the Date of Grant and (b) provide the Company with a description of the circumstances of such disposition. Until such time as the Participant disposes of such shares in a manner consistent with the provisions of this Option Agreement, unless otherwise expressly authorized by the Company, the Participant shall hold all shares acquired pursuant to the Option in the Participant's name (and not in the name of any nominee) for the one-year period immediately after the exercise of the Option and the two-year period immediately after Date of Grant. At any time during the one-year or two-year periods set forth above, the Company may place a legend on any certificate representing shares acquired pursuant to the Option requesting the transfer agent for the Company's stock to notify the Company of any such transfers. The obligation of the Participant to notify the Company of any such transfer shall continue notwithstanding that a legend has been placed on the certificate pursuant to the preceding sentence.

12. LEGENDS.

The Company may at any time place legends referencing any applicable federal, state or foreign securities law restrictions on all certificates representing shares of stock subject to the provisions of this Option Agreement. The Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing shares acquired pursuant to the Option in the possession of the Participant in order to carry out the provisions of this Section. Unless otherwise specified by the Company, legends placed on such certificates may include, but shall not be limited to, the following:

12.1 “THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 OR RULE 701 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT.”

12.2 “THE SHARES EVIDENCED BY THIS CERTIFICATE WERE ISSUED BY THE CORPORATION TO THE REGISTERED HOLDER UPON EXERCISE OF AN INCENTIVE STOCK OPTION AS DEFINED IN SECTION 422 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (“ISO”). IN ORDER TO OBTAIN THE PREFERENTIAL TAX TREATMENT AFFORDED TO ISOs, THE SHARES SHOULD NOT BE TRANSFERRED PRIOR TO *[INSERT DISQUALIFYING DISPOSITION DATE HERE]*. SHOULD THE REGISTERED HOLDER ELECT TO TRANSFER ANY OF THE SHARES PRIOR TO THIS DATE AND FOREGO ISO TAX TREATMENT, THE TRANSFER AGENT FOR THE SHARES SHALL NOTIFY THE CORPORATION IMMEDIATELY. THE REGISTERED HOLDER SHALL HOLD ALL SHARES PURCHASED UNDER THE INCENTIVE STOCK OPTION IN THE REGISTERED HOLDER’S NAME (AND NOT IN THE NAME OF ANY NOMINEE) PRIOR TO THIS DATE OR UNTIL TRANSFERRED AS DESCRIBED ABOVE.”

13. LOCK-UP AGREEMENT.

The Participant hereby agrees that in the event of any underwritten public offering of stock, made by the Company pursuant to an effective registration statement filed under the Securities Act, the Participant shall not offer, sell, contract to sell, pledge, hypothecate, grant any option to purchase or make any short sale of, or otherwise dispose of any shares of stock of the Company or any rights to acquire stock of the Company for such period of time from and after the effective date of such registration statement as may be established by the underwriter for such public offering; provided, however, that such period of time shall not exceed one hundred eighty (180) days from the effective date of the registration statement to be filed in connection with such public offering; provided, further, however, that such one hundred eighty (180) day period may be extended for an additional period, not to exceed twenty (20) days, upon the request of the Company or the underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto). The foregoing limitation shall not apply to shares registered in the public offering under the Securities Act. The Participant hereby agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing within a reasonable timeframe if so requested by the Company.

14. RESTRICTIONS ON TRANSFER OF SHARES.

No shares acquired upon exercise of the Option may be sold, exchanged, transferred (including, without limitation, any transfer to a nominee or agent of the Participant), assigned, pledged, hypothecated or otherwise disposed of, including by operation of law in any manner which violates any of the provisions of this Option Agreement, and any such attempted disposition shall be void. The Company shall not be required (a) to transfer on its books any shares which will have been transferred in violation of any of the provisions set forth in this Option Agreement or (b) to treat as owner of such shares or to accord the right to vote as such owner or to pay dividends to any transferee to whom such shares will have been so transferred.

15. MISCELLANEOUS PROVISIONS.

15.1 Termination or Amendment. The Board may terminate or amend the Plan or the Option at any time; provided, however, that except as provided in Section 8 in connection with a Change in Control, no such termination or amendment may adversely affect the Option or any unexercised portion hereof without the consent of the Participant unless such termination or amendment is necessary to comply with any applicable law or government regulation, including, but not limited to Section 409A of the Code. No amendment or addition to this Option Agreement shall be effective unless in writing.

15.2 Compliance with Section 409A. The Company intends that income realized by the Participant pursuant to the Plan and this Option Agreement will not be subject to taxation under Section 409A of the Code. The provisions of the Plan and this Option Agreement shall be interpreted and construed in favor of satisfying any applicable requirements of Section 409A of the Code. The Company, in its reasonable discretion, may amend (including retroactively) the Plan and this Agreement in order to conform to the applicable requirements of Section 409A of the Code, including amendments to facilitate the Participant's ability to avoid taxation under Section 409A of the Code. **However, the preceding provisions shall not be construed as a guarantee by the Company of any particular tax result for income realized by the Participant pursuant to the Plan or this Option Agreement.** In any event, and except for the responsibilities of the Company set forth in Section 4.4, no Participating Company shall be responsible for the payment of any applicable taxes incurred by the Participant on income realized by the Participant pursuant to the Plan or this Option Agreement.

15.3 Further Instruments. The parties hereto agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Option Agreement.

15.4 Binding Effect. This Option Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth herein, be binding upon the Participant and the Participant's heirs, executors, administrators, successors and assigns.

15.5 Delivery of Documents and Notices. Any document relating to participation in the Plan, or any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Option Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery at the e-mail address, if any, provided for the Participant by a Participating Company, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, or with a nationally recognized overnight courier service, with postage and fees prepaid, addressed to the other party at the address of such party set forth in the Grant Notice or at such other address as such party may designate in writing from time to time to the other party.

(a) Description of Electronic Delivery. The Plan documents, which may include but do not necessarily include: the Plan, the Grant Notice, this Option Agreement, and any reports of the Company provided generally to the Company's shareholders, may be delivered to the Participant electronically. In addition, if permitted by the Company, the Participant may deliver electronically the Grant Notice and Exercise Notice called for by Section 4.2 to the Company or to such third party involved in administering the Plan as the Company may designate from time to time. Such means of electronic delivery may include but do not necessarily include the delivery of a link to a Company intranet or the Internet site of a third party involved in administering the Plan, the delivery of the document via e-mail or such other means of electronic delivery specified by the Company.

(b) Consent to Electronic Delivery. The Participant acknowledges that the Participant has read Section 15.5(a) of this Option Agreement and consents to the electronic delivery of the Plan documents and, if permitted by the Company, the delivery of the Grant Notice and Exercise Notice, as described in Section 15.5(a). The Participant acknowledges that he or she may receive from the Company a paper copy of any documents delivered electronically at no cost to the Participant by contacting the Company by telephone or in writing. The Participant further acknowledges that the Participant will be provided with a paper copy of any documents if the attempted electronic delivery of such documents fails. Similarly, the Participant understands that the Participant must provide the Company or any designated third party administrator with a paper copy of any documents if the attempted electronic delivery of such documents fails. The Participant may revoke his or her consent to the electronic delivery of documents described in Section 15.5(a) or may change the electronic mail address to which such documents are to be delivered (if Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, the Participant understands that he or she is not required to consent to electronic delivery of documents described in Section 15.5(a).

15.6 Integrated Agreement. The Grant Notice, this Option Agreement and the Plan, together with any employment, service or other agreement with the Participant and a Participating Company referring to the Option, shall constitute the entire understanding and agreement of the Participant and the Participating Company Group with respect to the subject matter contained herein or therein and supersede any prior agreements, understandings, restrictions, representations, or warranties among the Participant and the Participating Company Group with respect to such subject matter. To the extent contemplated herein or therein, the provisions of the Grant Notice, the Option Agreement and the Plan shall survive any exercise of the Option and shall remain in full force and effect.

15.7 **Applicable Law.** This Option Agreement shall be governed by the laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within the State of California.

15.8 **Counterparts.** The Grant Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

- ☐ Incentive Stock Option
- ☐ Nonstatutory Stock Option

Participant: _____

Date: _____

STOCK OPTION EXERCISE NOTICE

DermTech, Inc.
Attention: Chief Financial Officer

Ladies and Gentlemen:

1. **Option.** I was granted an option (the “**Option**”) to purchase shares of the common stock (the “**Shares**”) of DermTech, Inc. (the “**Company**”) pursuant to the Company’s Amended and Restated 2010 Stock Plan (the “**Plan**”), my Notice of Grant of Stock Option (the “**Grant Notice**”) and my Stock Option Agreement (the “**Option Agreement**”) as follows:

Date of Grant: _____

Number of Option Shares: _____

Exercise Price per Share: \$ _____

2. **Exercise of Option.** I hereby elect to exercise the Option to purchase the following number of Shares, all of which are Vested Shares, in accordance with the Grant Notice and the Option Agreement:

Total Shares Purchased: _____

Total Exercise Price (Total Shares X Price per Share) \$ _____

3. **Payments.** I enclose payment in full of the total exercise price for the Shares in the following form(s), as authorized by my Option Agreement:

☐ Cash: \$ _____

☐ Check: \$ _____

☐ Cashless Exercise: Contact Plan Administrator

☐ Net Exercise: Contact Plan Administrator

4. **Tax Withholding.** I authorize payroll withholding and otherwise will make adequate provision for the federal, state, local and foreign tax withholding obligations of the Company, if any, in connection with the Option. If I am exercising a Nonstatutory Stock Option, I enclose payment in full of my withholding taxes, if any, as follows:

(Contact Plan Administrator for amount of tax due.)

☐ Cash: \$ _____
☐ Check: \$ _____

5. **Participant Information.**

My address is: _____

My Social Security Number is: _____

6. **Notice of Disqualifying Disposition.** If the Option is an Incentive Stock Option, I agree that I will promptly notify the Chief Financial Officer of the Company if I transfer any of the Shares within one (1) year from the date I exercise all or part of the Option or within two (2) years of the Date of Grant.

7. **Binding Effect.** I agree that the Shares are being acquired in accordance with and subject to the terms, provisions and conditions of the Grant Notice, the Option Agreement and the Plan, to all of which I hereby expressly assent. This Agreement shall inure to the benefit of and be binding upon my heirs, executors, administrators, successors and assigns.

8. **Transfer.** I understand and acknowledge that the Shares have not been registered under the Securities Act of 1933, as amended (the “**Securities Act**”), and that consequently the Shares must be held indefinitely unless they are subsequently registered under the Securities Act, an exemption from such registration is available, or they are sold in accordance with Rule 144 or Rule 701 under the Securities Act. I further understand and acknowledge that the Company is under no obligation to register the Shares. I understand that the certificate or certificates evidencing the Shares will be imprinted with legends which prohibit the transfer of the Shares unless they are registered or such registration is not required in the opinion of legal counsel satisfactory to the Company.

I am aware that Rule 144 under the Securities Act, which permits limited public resale of securities acquired in a nonpublic offering, is not currently available with respect to the Shares and, in any event, is available only if certain conditions are satisfied. I understand that any sale of the Shares that might be made in reliance upon Rule 144 may only be made in limited amounts in accordance with the terms and conditions of such rule and that a copy of Rule 144 will be delivered to me upon request.

I understand that I am purchasing the Shares pursuant to the terms of the Plan, the Grant Notice and my Option Agreement, copies of which I have received and carefully read and understand.

Very truly yours,

(Signature)

Receipt of the above is hereby acknowledged.

By: _____

Title: _____

Dated: _____

Restricted Stock Unit No. _____

DERMTECH, INC.
RESTRICTED STOCK UNIT AWARD GRANT NOTICE

**Restricted Stock Unit Award Grant under the
DermTech, Inc. Amended and Restated 2010 Stock Plan**

1. Name and Address of Participant: _____

2. Date of Grant of Restricted Stock Units: _____
3. Maximum Number of Shares underlying Restricted Stock Units: _____
4. Vesting of Restricted Stock Units: The Restricted Stock Units shall vest as follows provided the Participant is an Employee, Director or Consultant of the Company or of a Participating Company on the applicable vesting date set forth below (provided that the number of Shares vesting on each date shall be rounded down to the nearest whole number, whilst the number of Shares vesting on the final vesting date shall be the remaining unvested balance of the Shares):

Number of Restricted Stock UnitsVesting Date

The Company and the Participant acknowledge receipt of this Restricted Stock Unit Award Grant Notice and agree to the terms of the Restricted Stock Unit Agreement attached hereto and incorporated by reference herein, the DermTech, Inc. Amended and Restated 2010 Stock Plan and the terms of this Restricted Stock Unit Award as set forth above.

DermTech, Inc.

By: _____

Name: _____

Title: _____

Participant

**DERMTECH, INC.
EXECUTIVE
RESTRICTED STOCK UNIT AWARD GRANT NOTICE**

**Restricted Stock Unit Award Grant under the
DermTech, Inc. Amended and Restated 2010 Stock Plan**

1. Name and Address of Participant: _____

2. Date of Grant of Restricted Stock Units: _____
3. Maximum Number of Shares underlying Restricted Stock Units: _____
4. Vesting of Restricted Stock Units: The Restricted Stock Units shall vest as follows provided the Participant is an Employee, Director or Consultant of the Company or of a Participating Company on the applicable vesting date set forth below (provided that the number of Shares vesting on each date shall be rounded down to the nearest whole number, whilst the number of Shares vesting on the final vesting date shall be the remaining unvested balance of the Shares):

<u>Number of Restricted Stock Units</u>	<u>Vesting Date</u>
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Notwithstanding the foregoing, in the event Participant (i) is terminated other than for Cause (as defined below), death or Disability (as defined in the DermTech, Inc. Amended and Restated 2010 Stock Plan (the “**Plan**”)) or (ii) resigns for Good Reason (as defined below) during a period beginning three months prior to and ending 18 months following a Change in Control (as defined in the Plan) the number of Restricted Stock Units that are then unvested shall vest in full upon such termination or resignation.

“Cause” shall, for purposes of this Executive Restricted Stock Unit Award Grant Notice, have (i) the meaning assigned to such term in Participant’s employment agreement, written offer of employment or other applicable written agreement between the Participant and a Participating Company, or (ii) if not defined in such agreement, the meaning assigned to such term in the Plan.

“Good Reason” shall, for purposes of this Executive Restricted Stock Unit Award Grant Notice, (i) have the meaning assigned to such term in Participant’s employment agreement, written offer of employment or other applicable written agreement between the Participant and a Participating Company, or (ii) if not defined in such agreement, mean the occurrence of any of the following events or conditions, without Participant’s express written consent: (A) a material reduction in Participant’s base salary or bonus potential; (B) a material reduction in Participant’s duties, responsibilities or authority, including, without limitation, changes in Participant’s reporting structure resulting from a Change in Control (as defined in the Plan); (C) a change in geographic location at which Participant must perform services that results in an increase in the one-way commute of Participant by more than 50 miles; or (D) a successor of the Company does not assume Participant’s employment agreement, written offer of employment or other similar agreement between the Participant and a Participating Company; provided that Participant has provided notice to the Company of the condition giving rise to “Good Reason” within one hundred and twenty (120) days of Participant’s knowledge of the existence of such condition, and the Company has not remedied such condition in the thirty (30) days following such notice.

The Company and the Participant acknowledge receipt of this Executive Restricted Stock Unit Award Grant Notice and agree to the terms of the Restricted Stock Unit Agreement attached hereto and incorporated by reference herein, the Plan and the terms of this Restricted Stock Unit Award as set forth above.

DermTech, Inc.

By: _____

Name: _____

Title: _____

Participant

**DERMTECH, INC.
NON-EMPLOYEE DIRECTOR
RESTRICTED STOCK UNIT AWARD GRANT NOTICE**

**Restricted Stock Unit Award Grant under the
DermTech, Inc. Amended and Restated 2010 Stock Plan**

1. Name and Address of Participant: _____

2. Date of Grant of Restricted Stock Units: _____
3. Maximum Number of Shares underlying Restricted Stock Units: _____
4. Vesting of Restricted Stock Units: The Restricted Stock Units shall vest as follows provided the Participant is an Employee, Director or Consultant of the Company or of a Participating Company on the applicable vesting date set forth below (provided that the number of Shares vesting on each date shall be rounded down to the nearest whole number, whilst the number of Shares vesting on the final vesting date shall be the remaining unvested balance of the Shares):

Number of Restricted Stock Units

Vesting Date

Notwithstanding the foregoing, in the event of a Change in Control (as defined in the DermTech, Inc. Amended and Restated 2010 Stock Plan) while the Participant is a Director of the Company the number of Restricted Stock Units that are then unvested shall vest in full immediately prior to the Change in Control.

The Company and the Participant acknowledge receipt of this Non-Employee Director Restricted Stock Unit Award Grant Notice and agree to the terms of the Restricted Stock Unit Agreement attached hereto and incorporated by reference herein, the DermTech, Inc. Amended and Restated 2010 Stock Plan and the terms of this Restricted Stock Unit Award as set forth above.

DermTech, Inc.

By: _____

Name: _____

Title: _____

Participant

THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAVE NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102, OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

DERMTECH, INC.
RESTRICTED STOCK UNIT AGREEMENT

DermTech, Inc. has granted to the Participant named in the *Notice of Grant of Restricted Stock Unit* (the “**Grant Notice**”) to which this Restricted Stock Unit Agreement (the “**Restricted Stock Unit Agreement**”) is attached an award for the number of Restricted Stock Units set forth in the Grant Notice. Each Restricted Stock Unit represents a contingent entitlement of the Participant to receive one share of common stock, on the terms and conditions and subject to all the limitations set forth in the Grant Notice and this Restricted Stock Unit Agreement. The Restricted Stock Units have been granted pursuant to and shall in all respects be subject to the terms and conditions of the DermTech, Inc. Amended and Restated 2010 Stock Plan (the “**Plan**”), the provisions of which are incorporated herein by reference. By signing the Grant Notice, the Participant: (a) acknowledges receipt of, and represents that the Participant has read and is familiar with, the Grant Notice, this Restricted Stock Unit Agreement and the Plan, (b) accepts the Restricted Stock Units subject to all of the terms and conditions of the Grant Notice, this Restricted Stock Unit Agreement and the Plan, and (c) agrees that all decisions or interpretations of the Board upon any questions arising under the Grant Notice, this Restricted Stock Unit Agreement or the Plan shall be binding and conclusive, unless fraudulent or made in bad faith.

1. DEFINITIONS AND CONSTRUCTION.

(a) **Definitions.** Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Grant Notice or the Plan.

(b) **Construction.** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of this Restricted Stock Unit Agreement. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term “or” is not intended to be exclusive, unless the context clearly requires otherwise.

2. ADMINISTRATION.

All questions of interpretation concerning the Grant Notice, this Restricted Stock Unit Agreement, the Plan or any other form of agreement or other document employed by the Company in the administration of the Plan or the Restricted Stock Units shall be determined by the Board. All such determinations by the Board shall be final, binding and conclusive upon all persons having an interest in the Restricted Stock Units, unless fraudulent or made in bad faith. Any and all actions, decisions and determinations taken or made by the Board in the exercise of its discretion pursuant to the Plan or the Restricted Stock Units or other agreement thereunder (other than determining questions of interpretation pursuant to the preceding sentence) shall be final, binding and conclusive upon all persons having an interest in the Restricted Stock Units. Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has apparent authority with respect to such matter, right, obligation, or election.

3. VESTING.

Subject to the terms and conditions set forth in this Restricted Stock Unit Agreement, the Restricted Stock Units granted hereby shall vest as set forth in the Grant Notice and are subject to the other terms and conditions of this Restricted Stock Unit Agreement and the Plan. On each vesting date set forth in the Vesting of Award provision of the Grant Notice, the Participant shall be entitled to receive such number of shares of Stock equivalent to the number of Restricted Stock Units provided that, on such vesting date, the Participant is an Employee, Director or Consultant of the Company or of a Participating Company. Such shares of Stock shall thereafter be delivered by the Company to the Participant as set forth in Section 4. If the Participant ceases to be, for any reason, an Employee, Director or Consultant of the Company or any Participating Company prior to a vesting date set forth in the Grant Notice, then as of the date on which such relationship is terminated with the Participant, all unvested Restricted Stock Units shall immediately be forfeited to the Company and be of no further force or effect.

4. RELEASE OF SHARES.

(a) **Release Date.** Subject to Section 5 hereof, the Company shall issue on the applicable vesting date in certificated or uncertificated form shares of Stock equal to the number of vested Restricted Stock Units.

(b) **Beneficial Ownership of Shares; Certificate Registration.** The Participant hereby authorizes the Company, in its sole discretion, to deposit for the benefit of the Participant with any broker with which the Participant has an account relationship of which the Company has notice any or all shares acquired by the Participant pursuant to the settlement of the Restricted Stock Units. Except as provided by the preceding sentence, a certificate for the shares under this Restricted Stock Unit Agreement shall be registered in the name of the Participant, or, if applicable, in the names of the heirs of the Participant.

(c) **Restrictions on Issuance of Shares.** The grant of the Restricted Stock Units and the issuance of shares of Stock upon settlement of the Restricted Stock Units shall be subject to compliance with all applicable requirements of federal, state or foreign law with respect to such securities. Participant may not be issued any shares of Stock upon settlement of the Restricted Stock Units unless either (i) the Shares are then registered under the Securities Act, or (ii) the Company has determined that such issuance would be exempt from the registration requirements of the Securities Act. As of the date of this Restricted Stock Unit Agreement the shares of Stock have not been registered under the Securities Act and consequently the shares of Stock must be held indefinitely unless they are subsequently registered under the Securities Act, an exemption from such registration is available, or they are sold in accordance with Rule 144 or Rule 701 under the Securities Act. The Company is under no obligation to register the shares of Stock and Rule 144 under the Securities Act, which permits limited public resale of securities acquired in a nonpublic offering, is not currently available with respect to the shares of Stock and, in any event, is available only if certain conditions are satisfied. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any shares shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained.

(d) **Fractional Shares.** The Company shall not be required to issue fractional shares upon the settlement of Restricted Stock Units.

5. TAX WITHHOLDING.

The Participant acknowledges and agrees that any income or other taxes due from the Participant with respect to this Restricted Stock Unit Agreement or the shares of Stock to be issued pursuant hereto shall be the Participant's responsibility. Without limiting the foregoing, the Participant agrees that if under applicable law the Participant will owe taxes at each vesting date on the portion of the Award then vested the Participating Company shall be entitled to immediate payment from the Participant of the amount of any tax or other amounts required to be withheld by the Participating Company Group by applicable law or regulation. Any taxes or other amounts due shall be paid, at the option of the Company as follows:

(a) through reducing the number of shares of Stock entitled to be issued to the Participant on the applicable vesting date in an amount equal to the statutory minimum of the Participant's total tax and other withholding obligations due and payable by the Participating Company. Fractional shares will not be retained to satisfy any portion of the withholding obligation. Accordingly, the Participant agrees that in the event that the amount of withholding required would result in a fraction of a share being owed, that amount will be satisfied by withholding the fractional amount from the Participant's paycheck;

(b) requiring the Participant to deposit with the Participating Company an amount of cash equal to the amount determined by the Company to be required to be withheld with respect to the statutory minimum amount of the Participant's total tax and other withholding obligations due and payable by the Participating Company Group or otherwise withholding from the Participant's paycheck an amount equal to such amounts due and payable by the Participating Company Group; or

(c) if the Company believes that the sale of shares can be made in compliance with applicable securities laws, authorizing, at a time when the Participant is not in possession of material nonpublic information, the sale by the Participant on the applicable vesting date of such number of shares of Stock as the Company instructs a registered broker to sell to satisfy the Participating Company Group's withholding obligation, after deduction of the broker's commission, and the broker shall be required to remit to the Company the cash necessary in order for the Participating Company Group to satisfy its withholding obligation. To the extent the proceeds of such sale exceed the withholding obligation the Company agrees to pay such excess cash to the Participant as soon as practicable. In addition, if such sale is not sufficient to pay the withholding obligation the Participant agrees to pay to the Participating Company as soon as practicable, including through additional payroll withholding, the amount of any withholding obligation that is not satisfied by the sale of shares of Stock. The Participant agrees to hold the Participating Company Group and the broker harmless from all costs, damages or expenses relating to any such sale. The Participant acknowledges that the Company and the broker are under no obligation to arrange for such sale at any particular price. In connection with such sale of shares of Stock, the Participant shall execute any such documents requested by the broker in order to effectuate the sale of shares of Stock and payment of the withholding obligation. The Participant acknowledges that this paragraph is intended to comply with Section 10b5-1(c)(1)(i)(B) under the Exchange Act.

It is the Company's intention that the Participant's tax obligations under this Section 5 shall be satisfied through the procedure of Subsection (c) above, unless the Company provides notice of an alternate procedure under this Section, in its discretion. The Company shall not deliver any shares of Stock to the Participant until it is satisfied that all required withholdings have been made.

6. NONTRANSFERABILITY OF THE RESTRICTED STOCK UNITS.

The Restricted Stock Units shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution.

7. ADJUSTMENTS FOR CHANGES IN CAPITAL STRUCTURE.

Subject to any required action by the shareholders of the Company and the requirements of Section 409A of the Code to the extent applicable, in the event of any change in the Stock effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, stock dividend, stock split, reverse stock split, split-up, split-off, spin-off, combination of shares, exchange of shares, or similar change in the capital structure of the Company, or in the event of payment of a dividend or distribution to the shareholders of the Company in a form other than Stock (excepting normal cash dividends) that has a material effect on the Fair Market Value of shares of Stock, appropriate and proportionate adjustments shall be made in the number and kind of shares subject to the Restricted Stock Units, in order to prevent dilution or enlargement of the Participant's rights under the Restricted Stock Units. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." Any fractional share resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number. Such adjustments shall be determined by the Board, and its determination shall be final, binding and conclusive.

8. RIGHTS AS A SHAREHOLDER, DIRECTOR, EMPLOYEE OR CONSULTANT.

The Participant shall have no rights as a shareholder with respect to any shares covered by the Restricted Stock Units until the date of the issuance of the shares for which the Restricted Stock Units have vested (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is

prior to the date the shares are issued, except as provided in Section 7. If the Participant is an Employee, the Participant understands and acknowledges that, except as otherwise provided in a separate, written employment agreement between a Participating Company and the Participant, the Participant's employment is "at will" and is for no specified term. Nothing in this Restricted Stock Unit Agreement shall confer upon the Participant any right to continue in the Service of a Participating Company or interfere in any way with any right of the Participating Company Group to terminate the Participant's Service as a Director, an Employee or Consultant, as the case may be, at any time.

9. UNSECURED OBLIGATION.

This Award is unfunded, and even as to any Restricted Stock Units that vest, Participant shall be considered an unsecured creditor of the Company with respect to the Company's obligation, if any, to issue shares of Stock. Participant shall not have voting or any other rights as a stockholder of the Company with respect to any shares of Stock acquired pursuant to this Restricted Stock Unit Agreement until Shares are issued pursuant to Section 4 of this Restricted Stock Unit Agreement. Upon such issuance, Participant will obtain full voting and other rights as a stockholder of the Company with respect to the shares of Stock so issued. Nothing contained in this Restricted Stock Unit Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind or a fiduciary relationship between Participant and the Company or any other person.

10. STOCK DISTRIBUTIONS SUBJECT TO RESTRICTED STOCK UNIT AGREEMENT.

If, from time to time, there is any stock dividend, stock split or other change, as described in Section 7, in the character or amount of any of the outstanding stock of the corporation the stock of which is subject to the provisions of this Restricted Stock Unit Agreement, then in such event any and all new, substituted or additional securities to which the Participant is entitled by reason of the Participant's ownership of the shares acquired upon settlement of the Restricted Stock Units shall be immediately subject to this Restricted Stock Unit Agreement with the same force and effect as the shares subject to this Restricted Stock Unit Agreement immediately before such event.

11. LEGENDS.

The Company may at any time place legends referencing any applicable federal, state or foreign securities law restrictions on all certificates representing shares of stock subject to the provisions of this Restricted Stock Unit Agreement. The Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing shares acquired pursuant to the Restricted Stock Units in the possession of the Participant in order to carry out the provisions of this Section. Unless otherwise specified by the Company, legends placed on such certificates may include, but shall not be limited to, the following:

"THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 OR RULE 701 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT."

12. LOCK-UP AGREEMENT.

The Participant hereby agrees that in the event of any underwritten public offering of stock made by the Company pursuant to an effective registration statement filed under the Securities Act, the Participant shall not offer, sell, contract to sell, pledge, hypothecate, grant any option to purchase or make any short sale of, or otherwise dispose of any shares of stock of the Company or any rights to acquire stock of the Company for such period of time from and after the effective date of such registration statement as may be established by the underwriter for such public offering; provided, however, that such period of time shall not exceed one hundred eighty (180) days from the effective date of the registration statement to be filed in connection with such public offering; provided, further, however, that such one hundred eighty (180) day period may be extended for an additional period, not to exceed twenty (20) days, upon the request of the Company or the underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including but

not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto). The foregoing limitation shall not apply to shares registered in the public offering under the Securities Act. The Participant hereby agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing within a reasonable timeframe if so requested by the Company.

13. RESTRICTIONS ON TRANSFER OF SHARES.

No shares acquired upon settlement of the Restricted Stock Units may be sold, exchanged, transferred (including, without limitation, any transfer to a nominee or agent of the Participant), assigned, pledged, hypothecated or otherwise disposed of, including by operation of law in any manner which violates any of the provisions of this Restricted Stock Unit Agreement, and any such attempted disposition shall be void. The Company shall not be required (a) to transfer on its books any shares which will have been transferred in violation of any of the provisions set forth in this Restricted Stock Unit Agreement or (b) to treat as owner of such shares or to accord the right to vote as such owner or to pay dividends to any transferee to whom such shares will have been so transferred.

14. MISCELLANEOUS PROVISIONS.

(a) **Termination or Amendment.** The Board may terminate or amend the Plan or the Restricted Stock Units at any time; provided, however, that no such termination or amendment may adversely affect the Restricted Stock Units without the consent of the Participant unless such termination or amendment is necessary to comply with any applicable law or government regulation, including, but not limited to Section 409A of the Code. No amendment or addition to this Restricted Stock Unit Agreement shall be effective unless in writing.

(b) **Compliance with Section 409A.** The Restricted Stock Units evidenced by this Restricted Stock Unit Agreement are intended to comply with or be exempt from the nonqualified deferred compensation rules of Section 409A of the Code and shall be construed accordingly. In any event, the Company makes no representations or warranties and will have no liability to the Participant or to any other person, if any of the provisions of or payments under this Restricted Stock Unit Agreement are determined to constitute nonqualified deferred compensation subject to Section 409A of the Code but that do not satisfy the requirements of Section 409A of the Code. To the extent not so exempt, the delivery of shares in respect of the Restricted Stock Units provided under this Restricted Stock Unit Agreement (and any definitions in this Agreement and in the Grant Notice governing the Award) will be construed in a manner that complies with Section 409A and incorporates by reference all required definitions and payment terms. If this Restricted Stock Unit Agreement is not exempt from, and is therefore deemed to be deferred compensation subject to, Section 409A, and if Participant is a “specified employee” (within the meaning of Section 409A(a)(2)(B)(i) of the Code) as of the date of Participant’s separation from service (within the meaning of Treasury Regulations Section 1.409A-1(h)), then the issuance of any shares that would otherwise be made upon the date of Participant’s separation from service or within the first six months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the date that is six months and one day after the date of Participant’s separation from service, with the balance of the shares issued thereafter in accordance with the original issuance schedule, but if and only to the extent that the delay in issuance of the shares is necessary to avoid the imposition of taxation on Participant in respect of the shares under Section 409A. Each installment of Restricted Stock Unit that vests is a “separate payment” for purposes of Treasury Regulations Section 1.409A-2(b)(2). Notwithstanding the above, the Company makes no representations to Participant regarding the compliance of this Agreement or the Restricted Stock Units with Section 409A, and Participant is solely responsible for the payment of any taxes or penalties arising under Section 409A(a)(1) of the Internal Revenue Code, or any state law of similar effect, with respect to the grant or vesting of the Restricted Stock Units or the delivery of the shares subject to this Restricted Stock Unit Agreement.

(c) **Further Instruments.** The parties hereto agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Restricted Stock Unit Agreement.

(d) **Binding Effect.** This Restricted Stock Unit Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth herein, be binding upon the Participant and the Participant’s heirs, executors, administrators, successors and assigns.

(e) **Delivery of Documents and Notices.** Any document relating to participation in the Plan, or any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Restricted Stock Unit Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery at the e-mail address, if any, provided for the Participant by a Participating Company, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, or with a nationally recognized overnight courier service, with postage and fees prepaid, addressed to the other party at the address of such party set forth in the Grant Notice or at such other address as such party may designate in writing from time to time to the other party.

(i) **Description of Electronic Delivery.** The Plan documents, which may include but do not necessarily include: the Plan, the Grant Notice, this Restricted Stock Unit Agreement, and any reports of the Company provided generally to the Company's shareholders, may be delivered to the Participant electronically. Such means of electronic delivery may include but do not necessarily include the delivery of a link to a Company intranet or the Internet site of a third party involved in administering the Plan, the delivery of the document via e-mail or such other means of electronic delivery specified by the Company.

(ii) **Consent to Electronic Delivery.** The Participant acknowledges that the Participant has read Section 14(e)(i) of this Restricted Stock Unit Agreement and consents to the electronic delivery of the Plan documents and, if permitted by the Company, the delivery of the Grant Notice, as described in Section 14(e)(i). The Participant acknowledges that he or she may receive from the Company a paper copy of any documents delivered electronically at no cost to the Participant by contacting the Company by telephone or in writing. The Participant further acknowledges that the Participant will be provided with a paper copy of any documents if the attempted electronic delivery of such documents fails. Similarly, the Participant understands that the Participant must provide the Company or any designated third party administrator with a paper copy of any documents if the attempted electronic delivery of such documents fails. The Participant may revoke his or her consent to the electronic delivery of documents described in Section 14(e)(i) or may change the electronic mail address to which such documents are to be delivered (if Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, the Participant understands that he or she is not required to consent to electronic delivery of documents described in Section 14(e)(i).

(f) **Integrated Agreement.** The Grant Notice, this Restricted Stock Unit Agreement and the Plan, together with any employment, service or other agreement with the Participant and a Participating Company referring to the Restricted Stock Units, shall constitute the entire understanding and agreement of the Participant and the Participating Company Group with respect to the subject matter contained herein or therein and supersede any prior agreements, understandings, restrictions, representations, or warranties among the Participant and the Participating Company Group with respect to such subject matter. To the extent contemplated herein or therein, the provisions of the Grant Notice, the Restricted Stock Unit Agreement and the Plan shall survive any issuance of shares of Stock and shall remain in full force and effect.

(g) **Applicable Law.** This Restricted Stock Unit Agreement shall be governed by the laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within the State of California.

(h) **Counterparts.** The Grant Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.