

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

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

BSQUARE CORPORATION

(Exact name of registrant as specified in its charter)

Washington
(State or Other Jurisdiction
of Incorporation)

91-1650880
(IRS Employer
Identification No.)

1415 Western Ave, Suite 700,
Seattle, WA 98101
(Address of Principal Executive Offices)

BSQUARE CORPORATION 2021 EQUITY INCENTIVE PLAN
(Full title of the plan)

Ralph C. Derrickson
President and Chief Executive Officer
1415 Western Ave, Suite 700,
Seattle, WA, 98101
(425) 519-5900

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

Copies to:

Andrew Ledbetter
DLA Piper LLP (US)
701 5th Ave Ste 7000
Seattle, WA 98104
(206) 839-4845

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 the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input checked="" type="checkbox"/>	Smaller reporting company <input checked="" type="checkbox"/>
	Emerging growth company <input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price Per Share ⁽²⁾	Proposed Maximum Aggregate Offering Price ⁽²⁾	Amount of Registration Fee ⁽³⁾
Common Stock, no par value per share	1,200,000	\$2.59	\$3,108,000	\$339.08

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement also covers any additional shares of the registrant’s common stock that become issuable under the 2021 Equity Incentive Plan (the “Plan”) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the registrant’s outstanding shares of common stock.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) and 457(c) under the Securities Act based upon the average of the high and low sales price of the common stock on September 3, 2021, as reported on the Nasdaq Global Market.
- (3) Pursuant to Rule 457(p) of the Securities Act of 1933, as amended, \$339.08 of the remaining unutilized fees that were previously paid in respect of securities that were previously registered pursuant to Registration No. 333-219799, declared effective on August 8, 2017, and not issued or sold thereunder is being carried forward and has been applied against the entirety of the registration fee due for this offering.



PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for in Part I of Form S-8 is not being filed with or included in this Form S-8 (by incorporation by reference or otherwise) in accordance with the rules and regulations of the Securities and Exchange Commission (the "SEC").

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

In this registration statement, BSQUARE Corporation is sometimes referred to as "Registrant," "we," "us" or "our."

Item 3. Incorporation of Documents by Reference.

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this registration statement, and later information filed with the SEC will update and supersede this information. We hereby incorporate by reference into this registration statement the following documents previously filed with the SEC (all File No. 000-27687):

- (a) Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2020, filed with the SEC on March 18, 2021;
- (b) Quarterly Report on [Form 10-Q](#) for the quarter ended March 31, 2021, filed with the SEC on May 13, 2021, and Quarterly Report on [Form 10-Q](#) for the quarter ended June 30, 2021, filed with the SEC on August 12, 2021;
- (c) Current Reports on Form 8-K, filed with the SEC on [January 15, 2021](#), [March 18, 2021](#), [April 2, 2021](#), [May 13, 2021](#), [June 16, 2021](#) as amended on [June 30, 2021](#), [June 30, 2021](#), and [July 7, 2021](#); and
- (d) The description of our common stock contained in our registration statement on [Form 8-A](#), as filed with the SEC on October 15, 1999, including any amendments or reports for the purpose of updating such description.

All documents that the Registrant subsequently files pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act prior to the filing of a post-effective amendment to the registration statement which indicates that all of the shares of common stock offered have been sold or which deregisters all of such shares then remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be a part hereof from the date of the filing of such documents; except as to any portion of any future annual or quarterly report to shareholders or document or current report furnished under current Items 2.02 or 7.01 of Form 8-K, and exhibits furnished on such form that relate to such items, that is not deemed filed under such provisions. For the purposes of this registration statement, any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Under no circumstances will any information filed under current Items 2.02 or 7.01 of Form 8-K, and exhibits furnished on such form that relate to such items, be deemed incorporated herein by reference unless such Form 8-K expressly provides to the contrary.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

RCW 23B.08.320 permits a Washington corporation to, through its articles of incorporation, eliminate or limit the personal liability of a director to the corporation or its shareholders for monetary damages for conduct as a director, except for the following:

- acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director;
- conduct violating RCW 23B.08.310 relating to unlawful distributions;
- any transaction from which the director will personally receive a benefit in money, property or services to which the director is not legally entitled; and
- any act or omission occurring prior to the date when the provision in the articles of incorporation eliminating or limiting liability becomes effective.

RCW 23B.08.510 authorizes a Washington corporation to indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

- the individual acted in good faith;
- the individual reasonably believed (a) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in its best interests and (b) in all other cases, that the individual's conduct was at least not opposed to its best interests; and
- in the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

Notwithstanding the foregoing, a Washington corporation may not indemnify a director under RCW 23B.08.510 in connection with (a) a proceeding by or on behalf of the corporation in which the director was adjudged liable to the corporation or (b) any other proceeding charging improper personal benefit to the director, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director. Additionally, where a proceeding is by or on behalf of the corporation, the indemnification permitted under RCW 23B.08.510 is limited to reasonable expenses incurred in connection with the proceeding.

RCW 23B.08.520 mandates a Washington corporation to indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because of being a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding, unless such indemnification is limited in the corporation's articles of incorporation. Our amended and restated articles of incorporation do not contain any such limitation.

RCW 23B.08.540 permits court-ordered indemnification, unless a corporation's articles of incorporation provide otherwise. Pursuant to this provision, in the absence of a contrary provision in a corporation's articles of incorporation, a director who is a party to a proceeding may apply for indemnification or advance of expenses to the court conducting the proceeding or to another court of competent jurisdiction, and such court may order indemnification or advance of expenses if it makes certain determinations.

Under RCW 23B.08.570, unless a corporation's articles of incorporation provide otherwise, an officer of a Washington corporation who is not a director is also entitled to mandatory indemnification under RCW 23B.08.520 and court-ordered indemnification under RCW 23B.08.540, each of which sections are summarized above, to the same extent as a director. Further, a Washington corporation may indemnify an officer, employee or agent of the corporation under RCW 23B.08.510, to the same extent as a director.

RCW 23B.08.580 permits a corporation to purchase and maintain insurance on behalf of any individual who is or was a director, officer, employee or agent of the corporation, or who while a director, officer, employee or agent of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, officer, employee or agent, whether or not the corporation would have power to indemnify such individual against the same liability under RCW 23B.08.510 and 23B.08.520.

From time to time, we have entered into indemnification agreements with our officers and/or directors. These indemnification agreements provide such officers and directors with indemnification to the maximum extent permitted by the Washington Business Corporation Act.

We may also purchase and maintain liability insurance on behalf of our directors, officers, employees, and agents. We currently maintain a liability insurance policy pursuant to which our directors and officers may be indemnified against liability incurred as a result of serving in their capacities as directors and officers, subject to certain exclusions.

Any underwriting agreement that we may enter into will likely provide for indemnification by the underwriters of us and our officers and directors, and by us of the underwriters, against certain liabilities, including liabilities arising under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

<u>Exhibit Number</u>	<u>Description</u>	<u>Filed or Furnished Herewith</u>	<u>Form</u>	<u>Filing Date</u>	<u>Exhibit</u>	<u>File No.</u>
4.1	Amended and Restated Articles of Incorporation		S-1	8/17/1999	3.1	333-85351
4.1(a)	Articles of Amendment to Amended and Restated Articles of Incorporation		10-Q	8/7/2000	3.1	000-27687
4.1(b)	Articles of Amendment to Amended and Restated Articles of Incorporation		8-K	10/11/2005	3.1	000-27687
4.2	Amended and Restated Bylaws		8-K	8/10/2020	3.2	000-27687
5.1	Opinion of DLA Piper LLP (US)	X				
23.1	Consent of Moss Adams LLP, Independent Registered Public Accounting Firm	X				
23.2	Consent of DLA Piper LLP (US) (included in Exhibit 5.1)	X				
24.1	Power of Attorney (included on the signature page of this Registration Statement)	X				
99.1#	BSQUARE Corporation 2021 Equity Incentive Plan	X				
99.2#	Form of Option Agreement under the 2021 Equity Incentive Plan	X				
99.3#	Form of Restricted Stock Unit Agreement under the 2021 Equity Incentive Plan	X				
99.4#	Form of Performance Stock Unit Agreement under the 2021 Equity Incentive Plan	X				

Indicates management contract or compensatory plan.

Item 9. Undertakings.

1. The Registrant hereby undertakes:

- (a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
 - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (d) That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
 - (i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

- (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;
- (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and
- (iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

2. The Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, 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 City of Seattle, State of Washington on September 9, 2021.

BSQUARE CORPORATION

By: /s/ Ralph C. Derrickson
Ralph C. Derrickson
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW BY ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Ralph C. Derrickson and Christopher Wheaton, and each of them, as such person's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities, to sign any and all Amendments hereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue thereof.

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.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Ralph C. Derrickson</u> Ralph C. Derrickson	President and Chief Executive Officer and Director (Principal Executive Officer)	September 9, 2021
<u>/s/ Christopher Wheaton</u> Christopher Wheaton	Chief Financial Officer, Chief Operating Officer, Secretary and Treasurer	September 9, 2021
<u>/s/ Robert J. Chamberlain</u> Robert J. Chamberlain	Director	September 9, 2021
<u>/s/ Ryan Vardeman</u> Ryan Vardeman	Director	September 9, 2021
<u>/s/ Davin W. Cushman</u> Davin W. Cushman	Director	September 9, 2021
<u>/s/ Mary Jesse</u> Mary Jesse	Director	September 9, 2021



DLA Piper LLP (US)
701 Fifth Avenue, Suite 6900
Seattle, Washington 98104-7044
www.dlapiper.com

September 9, 2021

Bsquare Corporation
1415 Western Ave, Suite 700
Seattle, WA, 98101

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Bsquare Corporation, a Washington corporation (the "**Company**"), in connection with the preparation and filing of the Registration Statement on Form S-8 (the "**Registration Statement**") filed by the Company with the Securities and Exchange Commission (the "**Commission**") under the Securities Act of 1933, as amended (the "**Securities Act**"), with respect to the issuance from time to time of up to an aggregate of 1,200,000 shares (the "**Shares**") of the Company's common stock, no par value per share (the "**Common Stock**"), pursuant to awards granted or to be granted under the Bsquare Corporation 2021 Equity Incentive Plan (the "**2021 Plan**").

This opinion is being furnished in accordance with the requirements of Item 8 of Form S-8 and Item 601(b)(5)(i) of Regulation S-K.

We have examined such instruments, documents and records as we deemed relevant and necessary for the basis of our opinion hereinafter expressed. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to the originals of all documents submitted to us as copies. As to matters of fact relevant to our opinion set forth below, we have relied, without independent investigation, on certificates of public officials and of officers of the Company. We express no opinion concerning any law other than the laws of the State of Washington.

On the basis of the foregoing, we are of the opinion that, when the Shares are issued and paid for in accordance with the terms of the 2021 Plan, they will be validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement. 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.

Our opinion is expressly limited to the matters set forth above, and we render no opinion, whether by implication or otherwise, as to any other matters relating to the Company, the Shares, or the Registration Statement. This opinion is rendered as of the date hereof, and we assume no obligation to advise you of any fact, circumstance, event or development that may hereafter be brought to our attention whether or not such occurrence would alter, affect or modify the opinion expressed herein.

Very truly yours,

/s/ DLA Piper LLP (US)

DLA Piper LLP (US)

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 of Bsquare Corporation of our report dated March 18, 2021, relating to the consolidated financial statements of Bsquare Corporation included in the Annual Report on Form 10-K of Bsquare Corporation for the year ended December 31, 2020, filed with the Securities and Exchange Commission.

/s/ Moss Adams LLP

Seattle, Washington

September 9, 2021

**BSQUARE CORPORATION
2021 EQUITY INCENTIVE PLAN**

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BSQUARE CORPORATION
2021 EQUITY INCENTIVE PLAN

1. DEFINITIONS

Capitalized terms not defined elsewhere in the Plan shall have the following meanings (whether used in the singular or plural).

- (a) **“Agreement”** means a written agreement approved by the Committee evidencing Awards granted under the Plan.
 - (b) **“Approved Transaction”** means:
 - (i) the acquisition of the Company by another entity by means of merger, consolidation or other transaction or series of related transactions resulting in the exchange of the outstanding shares of the Company for securities of, or consideration issued, or caused to be issued by, the acquiring entity or any of its affiliates, provided, that after such event the shareholders of the Company immediately prior to the event own less than a majority of the outstanding voting equity securities of the surviving entity immediately following the event;
 - (ii) any liquidation or dissolution of the Company; and
 - (iii) any sale, lease, exchange or other transfer not in the ordinary course of business (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company.
 - (c) **“Award”** means any award granted under the Plan, including Options, Stock Awards, Restricted Stock Units and SARs.
 - (d) **“Awardee”** means any person to whom an Award is granted under the Plan (as well as any permitted transferee of an Award).
 - (e) **“Board”** means the Board of Directors of the Company.
 - (f) **“Code”** means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Code shall include any successor section.
 - (g) **“Committee”** shall mean the Board, or the committee appointed by the Board pursuant to Section 3(b) of the Plan, if it is administering the Plan.
 - (h) **“Common Stock”** means the Common Stock, no par value, of the Company.
 - (i) **“Company”** means BSQUARE Corporation, a Washington corporation.
 - (j) **“Control Purchase”** means any transaction (or series of related transactions) in which any person, corporation or other entity (including any “person” as defined in Sections 13(d)(3) and 14(d)(2) of the Exchange Act, but excluding the Company and any employee benefit plan sponsored by the Company):
 - (i) purchases any Common Stock (or securities convertible into Common Stock) for cash, securities or any other consideration pursuant to a tender offer or exchange offer unless by the terms of such offer the offeror, upon consummation thereof, would be the “beneficial owner” (as that term is defined in Rule 13d-3 under the Exchange Act) of less than 30% of the shares of Common Stock then outstanding; or
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- (ii) becomes the “beneficial owner,” directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the combined voting power of the then outstanding securities of the Company ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors (calculated as provided in Rule 13d-3(d) under the Exchange Act in the case of rights to acquire the Company’s securities); *provided, however*, that the foregoing shall not constitute a Control Purchase if the transactions or related transactions received the prior approval of a majority of all of the directors of the Company, excluding for such purpose the votes of directors who are directors or officers of, or have a material financial interest in any Person (other than the Company) who is a party to the event specified in either clauses (i) or (ii).
- (k) “**Date of Grant**” means that date the Committee has deemed to be the effective date of the Award for purposes of the Plan.
- (l) “**Disability**” means any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months that renders the Awardee unable to engage in any substantial gainful activity.
- (m) “**Effective Date**” means at the time specified in the resolutions of the Board adopting the Plan.
- (n) “**Employees**” means individuals employed by the Company or a Related Corporation.
- (o) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time, or any successor statute or statutes thereto. Reference to any specific section of the Exchange Act shall include any successor section.
- (p) “**Executive Officer**” shall be defined in Section 3(d).
- (q) “**Fair Market Value**” means, if the Common Stock is publicly traded, the last sales price (or, if no last sales price is reported, the average of the high bid and low asked prices) for a share of Common Stock on that day (or, if that day is not a trading day, on the next preceding trading day), as reported by the principal exchange on which the Common Stock is listed, or, if the Common Stock is publicly traded but not listed on an exchange, as reported by The Nasdaq Stock Market, or if such prices or quotations are not reported by The Nasdaq Stock Market, as reported by any other available source of prices or quotations selected by the Committee. If the Common Stock is not publicly traded or if the Fair Market Value is not determinable by any of the foregoing means, the Fair Market Value on any day shall be determined in good faith by the Committee on the basis of such considerations as the Committee deems important.
- (r) “**Immediate Family Member**” means a spouse, children or grandchildren of the Optionee.
- (s) “**Incentive Stock Option**” means an Option that is an incentive stock option within the meaning of Section 422 of the Code.
- (t) “**Non-Employee Director**” has the meaning given to it by Rule 16b-3 promulgated under the Exchange Act.
- (u) “**Non-Qualified Stock Option**” means an Option that is not an Incentive Stock Option.
- (v) “**Option**” means an option with respect to shares of Common Stock awarded pursuant to Section 6.
- (w) “**Optionee**” means any person to whom an Option is granted under the Plan (as well as any permitted transferee of an Option).
- (x) “**Plan**” means the BSQUARE Corporation 2021 Equity Incentive Plan.

- (y) **“Related Corporation”** means any corporation (other than the Company) that is a “parent corporation” of the Company or “subsidiary corporation” of the Company, as defined in Sections 424(e) and 424(f), respectively, of the Code.
- (z) **“Restricted Stock Awards”** means Awards granted pursuant to Section 8.
- (aa) **“Restricted Stock Unit”** means a bookkeeping entry representing the equivalent of one share of Common Stock, as awarded under the Plan.
- (bb) **“SARs”** means Awards granted pursuant to Section 7.
- (cc) **“Section 16 Insiders”** means individuals who are subject to Section 16(b) of the Exchange Act with respect to the Common Stock.
- (dd) **“Securities Act”** means the Securities Act of 1933, as amended from time to time, or any successor statute or statutes thereto. References to any specific section of the Securities Act shall include any successor section.
- (ee) **“Stock Awards”** means Restricted and Unrestricted Stock Awards granted pursuant to Sections 8 and 9, respectively.
- (ff) **“Ten Percent Shareholder”** means a person who owns more than ten percent of the total combined voting power of the Company or any related corporation as determined with reference to Section 424(d) of the Code.
- (gg) **“Unrestricted Stock Awards”** means Awards granted pursuant to Section 9.

2. **PURPOSES**

The purposes of the Plan are to retain the services of directors, valued key employees and consultants of the Company and such other persons as the Committee shall select in accordance with Section 4, to encourage such persons to acquire a greater proprietary interest in the Company, thereby strengthening their incentive to achieve the objectives of the shareholders of the Company, and to serve as an aid and inducement in hiring new employees and to provide an equity incentive to directors, consultants and other persons selected by the Committee.

3. **ADMINISTRATION**

(a) **Committee.**

The Plan shall be administered by the Board unless the Board appoints a separate committee of the board to administer the Plan pursuant to Section 3(b) below. A majority of the members of the Committee shall constitute a quorum, and all actions of the Committee shall be taken by a majority of the members present. Any action may be taken by a written instrument signed by all of the members of the Committee and any action so taken shall be fully effective as if it had been taken at a meeting.

(b) **Appointment of Committee.**

The Board may appoint a committee consisting of two or more of its members to administer the Plan. The Board shall consider whether a director is a Non-Employee Director when appointing any such Committee and shall appoint solely two or more individuals who qualify as Non-Employee Directors to administer the Plan with respect to Section 16 Insiders. The Committee shall have the powers and authority vested in the Board hereunder (including the power and authority to interpret any provision of the Plan or of any Option). The members of any such Committee shall serve at the pleasure of the Board.

(c) Powers; Regulations.

Subject to the provisions of the Plan, and with a view to effecting its purpose, the Committee shall have sole authority, in its absolute discretion, to:

- (1) construe and interpret the Plan;
- (2) define the terms used in the Plan;
- (3) prescribe, amend and rescind rules and regulations relating to the Plan;
- (4) correct any defect, supply any omission or reconcile any inconsistency in the Plan;
- (5) grant Awards under the Plan;
- (6) determine the individuals to whom Awards shall be granted under the Plan and the type of Award;
- (7) determine the time or times at which Awards shall be granted under the Plan;
- (8) determine the number of shares of Common Stock subject to each Award, the exercise price of each Award, the duration of each Award and the times at which each Award shall become exercisable;
- (9) determine all other terms and conditions of Awards; and
- (10) make all other determinations necessary or advisable for the administration of the Plan.

All decisions, determinations and interpretations made by the Committee shall be binding and conclusive on all participants in the Plan and on their legal representatives, heirs and beneficiaries.

(d) Delegation to Executive Officer.

The Committee may by resolution delegate to one or more executive officers (the "Executive Officer") of the Company the authority to grant Awards under the Plan to consultants and employees of the Company who, at the time of grant, are not Section 16 Insiders; *provided, however*, that the authority delegated to the Executive Officer under this Section 3 shall not exceed that of the Committee under the provisions of the Plan and shall be subject to such limitations, in addition to those specified in this Section 3, as may be specified by the Committee at the time of delegation.

(e) Option or SAR Repricing.

Without the affirmative vote of holders of a majority of the shares entitled to vote that are cast in person or by proxy at a meeting of the shareholders of the Company at which a quorum representing a majority of all outstanding shares is present or represented by proxy, the Board or Committee shall not approve a program providing for either (a) the cancellation of outstanding Options or SARs having exercise prices per share greater than the then Fair Market Value of a share of Common Stock ("Underwater Awards") and the grant in substitution therefor of new Options or SARs having a lower exercise price, awards other than Options or SARs or payments in cash, or (b) the amendment of outstanding Underwater Awards to reduce the exercise price thereof. This Section shall not be construed to apply to (i) "issuing or assuming a stock option in a transaction to which Section 424(a) applies," within the meaning of Section 424 of the Code, (ii) adjustments pursuant to the assumption of or substitution for an Option or SAR in a manner that would comply with Section 409A, or (iii) an adjustment pursuant to Section 12.

(f) Non-Employee Director Award Limit.

Notwithstanding any other provision of the Plan to the contrary, the aggregate grant date fair value (computed as of the date of grant in accordance with generally accepted accounting principles in the United States) of all Awards granted to any Non-Employee Director during any fiscal year of the Company, taken together with any cash compensation paid to such Non-Employee Director for service as a Non-Employee Director during such fiscal year, shall not exceed \$200,000.

(g) Minimum Vesting.

Except with respect to five percent (5%) of the maximum aggregate number of shares of Common Stock that may be issued under the Plan, as provided in Section 5, no Award which vests on the basis of the Awardee's continued service shall vest earlier than one year following the date of grant of such Award and no Award which vests on the basis of attainment of performance goals shall provide for a performance period of less than one year; provided, however, that such limitations shall not preclude the acceleration of vesting of such Award upon the death or disability of the Awardee or in connection with an Approved Transaction or Control Purchase.

4. ELIGIBILITY

Incentive Stock Options may be granted to any individual who, at the time such Options are granted, is an Employee, including Employees who are also directors of the Company. Other Awards may be granted to Employees and to such other persons as the Committee shall select. Awards may be granted in substitution for outstanding options or equity-based awards of another corporation in connection with the merger, consolidation, acquisition of property or stock or other reorganization between such other corporation and the Company or any subsidiary of the Company.

5. STOCK

The Company is authorized to grant up to a total of 1,200,000 shares of the Company's authorized but unissued, or reacquired, Common Stock pursuant to Awards under the Plan. The number of shares with respect to which Awards may be granted hereunder is subject to adjustment as set forth herein. In the event that any outstanding Award expires or is terminated for any reason, the shares of Common Stock allocable to the unexercised or forfeited portion of such Award may again be subject to an Award granted to the same Awardee or to a different person eligible under Section 4. Shares of Common Stock shall not be deemed to have been issued pursuant to the Plan with respect to any portion of an Award that is settled in cash. Upon payment in shares of Common Stock pursuant to the exercise of an SAR, the number of shares available for issuance under the Plan shall be reduced by the gross number of shares for which the SAR is exercised. If the exercise price of an Option is paid by tender to the Company, or attestation to the ownership, of shares of Common Stock owned by the Participant, or by means of share withholding, the number of shares available for issuance under the Plan shall be reduced by the gross number of shares for which the Option is exercised. Shares withheld or reacquired by the Company in satisfaction of tax withholding obligations pursuant to the exercise or settlement of Awards shall not again be available for issuance under the Plan. Shares purchased in the open market with proceeds from the exercise of Options shall not be added to the limit set forth in this Section.

6. TERMS AND CONDITIONS OF OPTIONS

Each Option granted under the Plan shall be evidenced by an Agreement. Agreements may contain such provisions, not inconsistent with the Plan, as the Committee or Executive Officer, in its discretion, may deem advisable. All Options also shall comply with the following requirements:

(a) Number of Shares and Type of Option.

Each Agreement shall state the number of shares of Common Stock to which it pertains and whether the Option is intended to be an Incentive Stock Option or a Non-Qualified Stock Option. In the absence of action to the contrary by the Committee or Executive Officer in connection with the grant of an Option, all Options shall be Non-Qualified Stock Options. The aggregate Fair Market Value (determined at the Date of Grant) of the Common Stock with respect to which the Incentive Stock Options granted to the Optionee and any incentive stock options granted to the Optionee under any other stock option plan of the Company, any Related Corporation or any predecessor corporation are exercisable for the first time by the Optionee during any calendar year shall not exceed \$100,000, or such other limit as may be prescribed by the Code. If:

- (1) an Optionee holds one or more Incentive Stock Options under the Plan (and/or any incentive stock options under any other stock option plan of the Company, any Related Corporation or any predecessor corporation), and

- (2) the aggregate Fair Market Value of the shares of Common Stock with respect to which, during any calendar year, such Options become exercisable for the first time exceeds \$100,000 (said value to be determined as provided above),

then such Option or Options are intended to qualify under Section 422 of the Code with respect to the maximum number of such shares as can, in light of the foregoing limitation, be so qualified, with the shares so qualified to be the shares subject to the Option or Options earliest granted to the Optionee. If an Option that would otherwise qualify as an Incentive Stock Option becomes exercisable for the first time in any calendar year for shares of Common Stock that would cause such aggregate Fair Market Value to exceed \$100,000, then the portion of the Option in respect of such shares shall be deemed to be a Non-Qualified Stock Option.

(b) Date of Grant.

Each Agreement shall state the Date of Grant.

(c) Option Price.

Each Agreement shall state the price per share of Common Stock at which it is exercisable. The exercise price shall be fixed by the Committee or Executive Officer at whatever price the Committee or Executive Officer may determine in the exercise of its sole discretion; *provided, however*, that the per share exercise price for an Option shall not be less than the Fair Market Value at the Date of Grant; *provided further*, that with respect to Incentive Stock Options granted to Ten Percent Shareholders of the Company, the per share exercise price shall not be less than 110 percent (110%) of the Fair Market Value at the Date of Grant; and, *provided further*, that Options granted in substitution for outstanding options of another corporation in connection with the merger, consolidation, acquisition of property or stock or other reorganization involving such other corporation and the Company or any subsidiary of the Company may be granted with an exercise price equal to the exercise price for the substituted option of the other corporation, subject to any adjustment consistent with the terms of the transaction pursuant to which the substitution is to occur.

(d) Duration of Options.

On the Date of Grant, the Committee or Executive Officer shall designate, subject to Section 6(g), the expiration date of the Option, which date shall not be later than ten (10) years from the Date of Grant in the case of Incentive Stock Options; *provided, however*, that the expiration date of any Incentive Stock Option granted to a Ten Percent Shareholder shall not be later than five (5) years from the Date of Grant. In the absence of action to the contrary by the Committee in connection with the grant of an Option, and except in the case of Incentive Stock Options granted to Ten Percent Shareholders, all Options granted under this Section 6 shall expire ten (10) years from the Date of Grant.

(e) Vesting Schedule and Exercisability of Options

No Option shall be exercisable until it has vested. The vesting schedule for each Option shall be specified by the Committee or Executive Officer at the time of grant of the Option.

The Committee or Executive Officer may specify a vesting schedule for all or any portion of an Option based on the achievement of performance objectives established in advance of the commencement by the Optionee of services related to the achievement of the performance objectives. Performance objectives shall be expressed in terms of one or more of the following: return on equity, return on assets, share price, market share, sales, earnings per share, costs, net earnings, net worth, inventories, cash and cash equivalents, gross margin or the Company's performance relative to its internal business plan. Performance objectives may be in respect of the performance of the Company as a whole (whether on a consolidated or unconsolidated basis), a Related Corporation, or a subdivision, operating unit, product or product line of the foregoing. Performance objectives may be absolute or relative and may be expressed in terms of a progression or a range. An Option which is exercisable (in whole or in part) upon the achievement of one or more performance objectives may be exercised only upon completion of the following process: (a) the Optionee must deliver written notice to the Company that the performance objective has been achieved and demonstrating, if necessary, how the objective has been satisfied, (b) within 45 days after receipt of such notice, the Committee will make a good faith determination whether such performance objective has been achieved and deliver written notice to the Optionee detailing the results of such determination; if the Company fails to respond with such 45-day period, then the performance objective shall be presumed to have been achieved and (c) upon receipt of written notice from the Company that the performance objective has been achieved (or upon expiration of such 45-day period without a determination by the Company), the Optionee may exercise the Option; upon receipt of written notice from the Company that the performance objective has not been achieved, the Optionee shall have 15 days to appeal the Company's determination and the Company shall have 15 days after the receipt of such appeal to consider the issues presented by the Optionee and make a determination on the appeal, which determination shall be conclusive and binding on the Optionee.

(f) Acceleration of Vesting.

Except to the extent that such acceleration would render unavailable “pooling of interests” accounting treatment for any reorganization, merger or consolidation of the Company, the vesting of one or more outstanding Options may be accelerated by the Board at such times and in such amounts as it shall determine in its sole discretion.

(g) Term of Option.

Any vested Option granted to an Optionee shall terminate, to the extent not previously exercised, upon the occurrence of the first of the following events:

- (1) as designated by (x) the Board in accordance with Section 6(n) hereof or (y) the Committee or the Executive Officer in accordance with Section 6(d) hereof;
- (2) the date of the Optionee’s termination of employment or contractual relationship with the Company or any Related Corporation for cause (as determined in the sole discretion of the Committee);
- (3) the expiration of ninety (90) days from the date of the Optionee’s termination of employment or contractual relationship with the Company or any Related Corporation for any reason whatsoever other than cause, death or Disability unless the exercise period is extended by the Committee a date not later than the expiration date of the Option;
- (4) the expiration of one year from (A) the date of death of the Optionee or (B) cessation of the Optionee’s employment or contractual relationship by reason of Disability unless the exercise period is extended by the Committee until a date not later than the expiration date of the Option; or
- (5) any other event specified by the Committee at the time of grant of the Option.

If an Optionee’s employment or contractual relationship is terminated by death, any Option granted to the Optionee shall be exercisable only by the person or persons to whom such Optionee’s rights under such Option shall pass by the Optionee’s will or by the laws of descent and distribution of the state or county of the Optionee’s domicile at the time of death. The Committee shall determine whether an Optionee has incurred a Disability on the basis of medical evidence reasonably acceptable to the Committee. Upon making a determination of Disability, the Committee shall, for purposes of the Plan, determine the date of an Optionee’s termination of employment or contractual relationship.

Unless accelerated in accordance with Section 6(f), any unvested Option granted to an Optionee shall terminate immediately upon termination of employment of the Optionee by the Company for any reason whatsoever, including death or Disability. For purposes of the Plan, transfer of employment between or among the Company and/o any Related Corporation shall not be deemed to constitute a termination of employment with the Company or any Related Corporation. For purposes of this subsection with respect to Incentive Stock Options, employment shall be deemed to continue while the Optionee is on military leave, sick leave or other bona fide leave of absence (as determined by the Committee). The foregoing notwithstanding, employment shall not be deemed to continue beyond the first ninety (90) days of such leave, unless the Optionee’s re-employment rights are guaranteed by statute or by contract.

(h) Exercise of Options.

If less than all of the shares included in an Option are purchased, the remainder may be purchased at any subsequent time prior to the expiration date with respect to, or the termination of, the Option. No portion of any Option may be exercised for less than one hundred (100) shares (as adjusted pursuant to Section 6(m)); provided, however, that if the Option is less than one hundred (100) shares, it may be exercised with respect to all shares for which it is vested. Only whole shares may be issued upon exercise of an Option, and to the extent that an Option covers less than one (1) share, it is unexercisable.

An Option or any portion thereof may be exercised by giving written notice to the Company upon such terms and conditions as the Agreement evidencing the Option may provide and in accordance with such other procedures for the exercise of an Option as the Committee may establish from time to time. Such notice shall be accompanied by payment in the amount of the aggregate exercise price for such shares, which payment shall be in the form specified in Section 6(i). The Company shall not be obligated to issue, transfer or deliver a certificate of Common Stock to the holder of any Option until provision has been made by the holder, to the satisfaction of the Company, for the payment of the aggregate exercise price for all shares for which the Option shall have been exercised and for satisfaction of any tax withholding obligations associated with such exercise. Options granted to an Optionee are, during the Optionee's lifetime, exercisable only by the Optionee or a transferee who takes title to the Option in the manner permitted by Section 6(k).

(i) Payment upon Exercise of Option.

Upon the exercise of an Option, the Optionee shall pay to the Company the aggregate exercise price therefor in cash, by certified or cashier's check. In addition, such Optionee may pay for all or any portion of the aggregate exercise price by complying with one or more of the following alternatives:

- (1) by delivering to the Company whole shares of Common Stock then owned by such Optionee, or, subject to the prior approval of the Committee, by the Company withholding whole shares of Common Stock otherwise issuable to the Optionee upon exercise of the Option, which shares of Common Stock received or withheld shall be valued for such purpose at their Fair Market Value on the date of exercise.
- (2) by delivering a properly executed exercise notice together with irrevocable instructions to a broker to promptly deliver to the Company the amount of sale or loan proceeds required to pay the exercise price;
- (3) by any combination of the foregoing methods of payment; or
- (4) by complying with any other payment mechanism, including through the execution of a promissory note, as may be permitted for the issuance of equity securities under applicable securities and other laws and approved by the Committee at the time of exercise.

(j) Rights as a Shareholder.

An Optionee shall have no rights as a shareholder with respect to any shares of Common Stock issuable upon exercise of the Option until such holder becomes a record holder of such shares. Subject to the provisions of Sections 6(m), no rights shall accrue to an Optionee and no adjustments shall be made on account of dividends (ordinary or extraordinary, whether in cash, securities or other property) or distributions or other rights declared on, or created in, the Common Stock for which the record date is prior to the date such Optionee becomes a record holder of the shares of Common Stock issuable upon exercise of such Option.

(k) Transfer of Option.

Options granted under the Plan and the rights and privileges conferred by the Plan may not be transferred, assigned, pledged or hypothecated in any manner (whether by operation of law or otherwise) other than by will, by applicable laws of descent and distribution or pursuant to a domestic relations order (as defined in the Code or Title I of the Employment Retirement Income Security Act of 1974 or the rules or regulations thereunder), and shall not be subject to execution, attachment or similar process; *provided, however*, that solely with respect to Non-Qualified Stock Options, the Committee may, in its discretion, authorize all or a portion of the Options to be granted to an Optionee to be on terms which permit transfer by such Optionee to:

- (1) Immediate Family Members,
- (2) a trust or trusts for the exclusive benefit of such Immediate Family Members, or

- (3) a partnership in which such Immediate Family Members are the only partners, provided that:
 - (i) there may be no consideration for any such transfer,
 - (ii) the Agreement evidencing such Options must be approved by Committee, and must expressly provide for transferability in a manner consistent with this Section, and
 - (iii) subsequent transfers of transferred Options shall be prohibited other than by will, by applicable laws of descent and distribution or pursuant to a domestic relations order (as defined in the Code or Title I of the Employment Retirement Income Security Act of 1974 or the rules or regulations thereunder).

Following transfer, any such Options shall continue to be subject to the same terms and conditions as were applicable immediately prior to transfer, provided that for purposes of Section 6(1)(2), the term "Optionee" shall be deemed to refer to the initial transferor. The events of termination of employment of Section 6(g) shall continue to be applied with respect to the original Optionee, following which the options shall be exercisable by the transferee only to the extent, and for the periods, specified in Section 6(g). Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of any Option or of any right or privilege conferred by the Plan contrary to the provisions hereof, or upon the sale, levy or any attachment or similar process upon the rights and privileges conferred by the Plan, such Option shall thereupon terminate and become null and void.

(l) Securities Regulation and Tax Withholding.

- (1) No shares of Common Stock shall be issued upon exercise of an Option unless the exercise of such Option and the issuance and delivery of such shares shall comply with all relevant provisions of law, including, without limitation, any applicable state securities laws, the Securities Act, the Exchange Act, the rules and regulations thereunder and the requirements of any stock exchange upon which such shares may then be listed, and such issuance shall be further subject to the approval of counsel for the Company with respect to such compliance, including the availability of an exemption from registration for the issuance and sale of such shares. The inability of the Company to obtain from any regulatory body the authority deemed by the Company to be necessary for the lawful issuance and sale of any shares under the Plan, or the unavailability of an exemption from registration for the issuance and sale of any shares under the Plan, shall relieve the Company of any liability with respect to the non-issuance or sale of such shares.

As a condition to the exercise of an Option, the Committee may require the Optionee to represent and warrant in writing at the time of such exercise that the shares of Common Stock issuable upon exercise of the Option are being purchased only for investment and without any then-present intention to sell or distribute such shares. At the option of the Committee, a stop-transfer order against such shares may be placed on the stock books and records of the Company, and a legend indicating that such shares may not be pledged, sold or otherwise transferred unless an opinion of counsel is provided stating that such transfer is not in violation of any applicable law or regulation, may be stamped on the certificates representing such shares in order to assure an exemption from registration. The Committee also may require such other documentation as it shall, in its discretion, deem necessary from time to time to comply with federal and state securities laws. THE COMPANY HAS NO OBLIGATION TO UNDERTAKE REGISTRATION OF ANY OPTION OR ANY SHARES OF COMMON STOCK ISSUABLE UPON THE EXERCISE OF ANY OPTION.

- (2) The Optionee shall pay to the Company by certified or cashier's check, promptly upon exercise of the Option or, if later, the date that the amount of such obligations becomes determinable, all applicable federal, state, local and foreign withholding taxes that the Committee, in accordance with the applicable rules and regulations, determines to result from the exercise of the Option or from a transfer or other disposition of shares of Common Stock acquired upon exercise of the Option or otherwise related to the Option or shares of Common Stock acquired upon exercise of the Option, which determination by the Committee of the amount due shall be binding upon the Optionee. Upon approval of the Committee, such Optionee may satisfy such obligation by complying with one or more of the following alternatives selected by the Committee:
- (A) by delivering to the Company whole shares of Common Stock then owned by such Optionee, or by the Company withholding whole shares of Common Stock otherwise issuable to the Optionee upon exercise of the Option, which shares of Common Stock received or withheld shall have a Fair Market Value on the date of exercise (as determined by the Committee in good faith) equal to the tax obligation to be paid by such Optionee upon such exercise determined by the applicable minimum statutory withholding rates;
 - (B) by executing appropriate loan documents approved by the Committee by which such Optionee borrows funds from the Company to pay the withholding taxes due under this Section 6(l)(2), with such repayment terms as the Committee shall select;
 - (C) by any combination of the foregoing methods of payment; or
 - (D) by complying with any other payment mechanism as may be permitted for the issuance of equity securities under applicable securities and other laws and approved by the Committee from time to time.
- (3) The issuance, transfer or delivery of certificates of Common Stock pursuant to the exercise of an Option may be delayed, at the discretion of the Committee, until the Committee is satisfied that the applicable requirements of the federal and state securities laws and the withholding provisions of the Code have been met.

(m) Stock Split, Reorganization or Liquidation.

- (1) Upon the occurrence of any of the following events, the Committee shall, with respect to each outstanding Option, proportionately adjust the number of shares of Common Stock issuable upon exercise of such Option, the per share exercise price or both so as to preserve the rights of the Optionee substantially proportionate to the rights of such Optionee prior to such event, and to the extent that such action shall include an increase or decrease in the number of shares of Common Stock issuable upon exercise of outstanding Options, the number of shares available under Section 5 shall automatically be increased or decreased, as the case may be, proportionately, without further action on the part of the Committee, the Company, the Company's shareholders, or any Optionee:
- (i) the Company shall at any time be involved in a transaction described in Section 424(a) of the Code (or any successor provision) or any "corporate transaction" described in the regulations promulgated thereunder;
 - (ii) the Company subdivides its outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock dividend, stock split, reclassification or otherwise) or combines its outstanding shares of Common Stock into a smaller number of shares of Common Stock (by reverse stock split, reclassification or otherwise); or
 - (iii) any other event with substantially the same effect shall occur.

- (2) If the Company shall at any time declare an extraordinary dividend with respect to the Common Stock, whether payable in cash or other property, or is involved in any recapitalization, spin-off, combination, exchange of shares, warrants or rights offering to purchase Common Stock, or other similar event (including a merger or consolidation other than one that constitutes an Approved Transaction), the Committee may, in the exercise of its sole discretion and with respect to each outstanding Option, proportionately adjust the number of shares of Common Stock issuable upon exercise of such Option, the per share exercise price or both so as to preserve the rights of the Optionee substantially proportionate to the rights of such Optionee prior to such event, and to the extent that such action shall include an increase or decrease in the number of shares of Common Stock issuable upon exercise of outstanding Options, the number of shares available under Section 5 of the Plan shall automatically be increased or decreased, as the case may be, proportionately, without further action on the part of the Committee, the Company, the Company's shareholders, or any Optionee.
- (3) The foregoing adjustments shall be made by the Committee or by the applicable terms of any assumption or substitution document.
- (4) With respect to the foregoing adjustments, the number of shares subject to an Option shall always be a whole number. The Committee may, if deemed appropriate, provide for a cash payment to any Optionee in connection with any adjustment made pursuant to this Section 6(m).
- (5) The grant of an Option shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge, consolidate or dissolve, to liquidate or to sell or transfer all or any part of its business or assets.

(n) Approved Transactions; Control Purchase.

In the event of any Approved Transaction or Control Purchase, if so provided for in the Agreement representing such Option, an Option may become exercisable in full in respect of the aggregate number of shares thereunder effective upon the Control Purchase or immediately prior to consummation of the Approved Transaction. In the case of an Approved Transaction, the Company shall provide notice of the pendency of the Approved Transaction at least fifteen (15) days prior to the expected date of consummation thereof to each Optionee entitled to acceleration. Each such Optionee shall thereupon be entitled to exercise the vested portion of the Option at any time prior to consummation of the Approved Transaction or immediately following the Control Purchase. Any such exercise shall be contingent on such consummation.

Following consummation of the Approved Transaction or Control Purchase, and until such Option is terminated pursuant to Section 6(g) hereof, any vested portion of Options that are not exercised shall remain exercisable, and any unvested portions of any Options shall remain in effect and continue to vest in accordance with the vesting schedule specified at the time of grant, and upon such vesting shall become exercisable. Notwithstanding the foregoing, in its reasonable discretion, the Board may determine that any or all outstanding Options that are unvested at the time of, or are not exercised upon consummation of, the Approved Transaction or Control Purchase shall thereafter terminate, provided that, in making such determination, the Board shall consider the best interests of the Optionees, the Company and its shareholders, and will make such determination only if the action to be taken, in the opinion of the Board, is appropriate in light of the circumstances under which such determination is made.

Moreover, except to the extent that such determination would render unavailable "pooling of interests" accounting treatment for any reorganization, merger or consolidation of the Company, the Board may take, or make effective provision for the taking of, such action as in the opinion of the Board is equitable and appropriate in order to substitute new stock options for any or all outstanding Options that do not become exercisable on an accelerated basis, or to assume such Options (which assumption may be effected by any means determined by the Board, in its discretion, including, but not limited to, by a cash payment to each Optionee, in cancellation of the Options held by him or her, of such amount as the Board determines, in its sole discretion, represents the then value of the Options) and in order to make such new stock options or assumed Options, as nearly as practicable, equivalent to the old Options, taking into account, to the extent applicable, the kind and amount of securities, cash or other assets into or for which the Common Stock may be changed, converted or exchanged in connection with the Approved Transaction.

7. TERMS AND CONDITIONS OF STOCK APPRECIATION RIGHTS

(a) Award of Stock Appreciation Rights.

Stock appreciation rights (“SARs”) may be granted to eligible participants, either on a free-standing basis (without regard to or in addition to the grant of an Option) or on a tandem basis (related to the grant of an underlying Option). SARs granted in tandem with or in addition to an Option may be granted either at the same time as the Option or at a later time; provided, however, that a tandem SAR shall not be granted with respect to any outstanding Incentive Stock Option without the consent of the Awardee. SARs shall be evidenced by Agreements stating the number of shares of Common Stock subject to the SAR evidenced thereby and the terms and conditions of such SAR. In no event shall a SAR be exercisable more than ten years from the date it is granted. The Awardee shall have none of the rights of a shareholder of the Company with respect to any shares of Common Stock represented by a SAR.

(b) Restrictions of Tandem SARs.

No Incentive Stock Option may be surrendered in connection with the exercise of a tandem SAR unless the Fair Market Value of the Common Stock subject to the Incentive Stock Option is greater than the exercise price for such Incentive Stock Option. SARs granted in tandem with Options shall be exercisable only to the same extent and subject to the same conditions as the Options related thereto are exercisable. Additional conditions to the exercise of any such tandem SAR may be prescribed.

(c) Amount of Payment Upon Exercise of SARs.

A SAR shall entitle the Awardee to receive, subject to the provisions of the Plan and the applicable Agreement, a payment having an aggregate value equal to the product of (i) the excess of (A) the Fair Market Value on the exercise date of one share of Common Stock over (B) the base price per share specified in the applicable Agreement, times (ii) the number of shares specified by the SAR, or portion thereof, which is exercised. In the case of exercise of a tandem SAR, such payment shall be made in exchange for the surrender of the unexercised related Option (or any portion or portions thereof which the Awardee from time to time determines to surrender for this purpose).

(d) Form of Payment Upon Exercise of SARs.

Payment by the Company of the amount receivable upon any exercise of a SAR may be made by the delivery of Common Stock or cash, or any combination of Common Stock and cash, as determined in the sole discretion of the Committee from time to time. If upon settlement of the exercise of a SAR an Awardee is to receive a portion of such payment in shares of Common Stock, the number of shares shall be determined by dividing such portion by the Fair Market Value of a share of Common Stock on the exercise date. No fractional shares shall be used for such payment and the Committee shall determine whether cash shall be given in lieu of such fractional shares or whether such fractional shares shall be eliminated.

8. RESTRICTED STOCK AWARDS

(a) Nature of Restricted Stock Awards.

A Restricted Stock Award is an Award pursuant to which the Company may, in its sole discretion, grant or sell, at such purchase price as determined by the Committee, in its sole discretion, shares of Common Stock subject to such restrictions and conditions as the Committee may determine at the time of grant (“Restricted Stock”), which purchase price shall be payable in cash or other form of consideration acceptable to the Committee. Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The terms and conditions of each such Agreement shall be determined by the Committee, and such terms and conditions may differ among individual Awards and Awardees.

(b) Rights as a Shareholder.

Upon execution of an Agreement setting forth the Restricted Stock Award and payment of any applicable purchase price, an Awardee shall have the rights of a shareholder with respect to the voting of the Restricted Stock, subject to such conditions contained in the applicable Agreement. Unless the Committee shall otherwise determine, certificates evidencing the Restricted Stock shall remain in the possession of the Company until such Restricted Stock is vested as provided in Section 8(d) below, and the Awardee shall be required, as a condition of the grant, to deliver to the Company a stock power endorsed in blank. Dividends and distributions payable with respect to shares of Restricted Stock shall be subject to the same vesting conditions as the shares subject to the Restricted Stock Award with respect to which such dividends or distributions were declared and shall be paid to the Awardee at the time such shares vest but in any event no later than the 15th day of the third month following the calendar year in which such shares vest. In the event of a dividend or distribution paid in shares of Common Stock or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 12, any and all new, substituted or additional securities or other property (other than regular, periodic cash dividends) to which the Awardee is entitled by reason of the Awardee's Restricted Stock Award shall be immediately subject to the same vesting conditions as the shares subject to the Restricted Stock Award with respect to which such dividends or distributions were paid or adjustments were made.

(c) Restrictions.

Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided herein or in the applicable Agreement. If an Awardee's employment (or other service relationship) with the Company terminates under the conditions specified in the applicable Agreement, or upon such other event or events as may be stated in the applicable Agreement, the Company or its assigns shall have the right or shall agree, as may be specified in the applicable Agreement, to repurchase some or all of the shares of Common Stock subject to the Award at such purchase price as is set forth in such instrument.

(d) Vesting of Restricted Stock.

The Committee at the time of grant shall specify the date or dates and/or the attainment of pre-established performance goals, objectives and other conditions on which Restricted Stock shall become vested, subject to such further rights of the Company or its assigns as may be specified in the applicable Agreement.

9. UNRESTRICTED STOCK AWARDS

(a) Grant or Sale of Unrestricted Stock.

The Committee may, in its sole discretion, grant (or sell at a purchase price determined by the Committee) an Unrestricted Stock Award to any Awardee, pursuant to which such Awardee may receive shares of Common Stock free of any vesting restrictions ("Unrestricted Stock") under the Plan. Unrestricted Stock Awards may be granted or sold as described in the preceding sentence in respect of past services or other valid consideration, or in lieu of any cash compensation due to such individual.

(b) Elections to Receive Unrestricted Stock In Lieu of Compensation.

Upon the request of an Awardee and with the consent of the Committee, each such Awardee may, pursuant to an advance written election delivered to the Company no later than the date specified by the Committee, receive a portion of the cash compensation otherwise due to such Awardee in the form of shares of Unrestricted Stock either currently or on a deferred basis, subject to compliance with Section 409A of the Code.

(c) Restrictions on Transfers.

The right to receive shares of Unrestricted Stock on a deferred basis may not be sold, assigned, transferred, pledged or otherwise encumbered, other than by will or the laws of descent and distribution.

10. TERMS AND CONDITIONS OF RESTRICTED STOCK UNITS

(a) Restricted Stock Unit Agreement.

Each grant of Restricted Stock Units under the Plan shall be evidenced by an Agreement between the recipient and the Company. Such Restricted Stock Units shall be subject to the terms of the Plan and may be subject to any other terms that are not inconsistent with the Plan. The provisions of the various Agreements evidencing Restricted Stock Units under the Plan need not be identical.

(b) Number of Shares.

Each Agreement evidencing a Restricted Stock Unit shall specify the number of shares of Common Stock to which the Restricted Stock Unit pertains and shall provide for the adjustment of such number in accordance with Section 12.

(c) Payment for Awards.

To the extent that an Award is granted in the form of Restricted Stock Units, no cash consideration shall be required of the Awardee.

(d) Vesting of Restricted Stock Units.

The Committee at the time of grant shall specify the date or dates and/or the attainment of pre-established performance goals, objectives and other conditions on which the Restricted Stock Unit shall become vested, subject to such further rights of the Company or its assigns as may be specified in the applicable Agreement.

(e) Voting and Dividend Rights.

The holders of Restricted Stock Units shall have no voting rights. Prior to settlement or forfeiture, any Restricted Stock Unit awarded under the Plan may, at the Committee's discretion, carry with it a right to dividend equivalents. Such right entitles the holder to be credited with an amount equal to all cash dividends paid on one share of Common Stock while the Restricted Stock Unit is outstanding. Dividend equivalents may be converted into additional Restricted Stock Units. Settlement of dividend equivalents may be made in the form of cash, in the form of shares of Common Stock, or in a combination of both. Any dividend equivalents credited shall be subject to the same conditions and restrictions as the Restricted Stock Units to which they attach and shall be settled in the same manner and at the same time as the Restricted Stock Units originally subject to the Restricted Stock Units Award.

(f) Form and Time of Settlement of Restricted Stock Units.

Settlement of vested Restricted Stock Units may be made in the form of (a) cash, (b) shares of Common Stock or (c) any combination of both, as determined by the Committee. The actual number of Restricted Stock Units eligible for settlement may be larger or smaller than the number included in the original Award, based on predetermined performance factors. Methods of converting Restricted Stock Units into cash may include (without limitation) a method based on the average Fair Market Value of shares of Common Stock over a series of trading days. Vested Restricted Stock Units may be settled in a lump sum or in installments, subject to Section 409A of the Code. The distribution may occur or commence when all vesting conditions applicable to the Restricted Stock Units have been satisfied or have lapsed, or it may be deferred to any later date, subject to Section 409A of the Code. The amount of a deferred distribution may be increased by an interest factor or by dividend equivalents. Until an Award of Restricted Stock Units is settled, the number of such Restricted Stock Units shall be subject to adjustment pursuant to Section 12.

(g) Creditors' Rights.

A holder of Restricted Stock Units shall have no rights other than those of a general creditor of the Company. Restricted Stock Units represent an unfunded and unsecured obligation of the Company, subject to the terms and conditions of the applicable Restricted Stock Agreement.

11. SECURITIES REGULATION AND TAX WITHHOLDING

- (a)** No shares of Common Stock shall be issued upon exercise or settlement of an Award unless the exercise or settlement of such Award and the issuance and delivery of such shares shall comply with all relevant provisions of law, including, without limitation, any applicable state securities laws, the Securities Act, the Exchange Act, the rules and regulations thereunder and the requirements of any stock exchange upon which such shares may then be listed, and such issuance shall be further subject to the approval of counsel for the Company with respect to such compliance, including the availability of an exemption from registration for the issuance and sale of such shares. The inability of the Company to obtain from any regulatory body the authority deemed by the Company to be necessary for the lawful issuance and sale of any shares under the Plan, or the unavailability of an exemption from registration for the issuance and sale of any shares under the Plan, shall relieve the Company of any liability with respect to the non-issuance or sale of such shares.

As a condition to the exercise or settlement of an Award, the Committee may require the Awardee to represent and warrant in writing at the time of such exercise or settlement that the shares of Common Stock issuable upon exercise or settlement of the Award are being purchased only for investment and without any then-present intention to sell or distribute such shares. At the option of the Committee, a stop-transfer order against such shares may be placed on the stock books and records of the Company, and a legend indicating that such shares may not be pledged, sold or otherwise transferred unless an opinion of counsel is provided stating that such transfer is not in violation of any applicable law or regulation, may be stamped on the certificates representing such shares in order to assure an exemption from registration. The Committee also may require such other documentation as it shall, in its discretion, deem necessary from time to time to comply with federal and state securities laws. **THE COMPANY HAS NO OBLIGATION TO UNDERTAKE REGISTRATION OF ANY AWARD OR ANY SHARES OF COMMON STOCK ISSUABLE UPON THE EXERCISE OF ANY AWARD.**

- (b) The Awardee shall pay to the Company by certified or cashier's check, promptly upon exercise or settlement of the Award or, if later, the date that the amount of such obligations becomes determinable, all applicable federal, state, local and foreign withholding taxes that the Committee, in accordance with the applicable rules and regulations, determines to result from the exercise of the Award or from a transfer or other disposition of shares of Common Stock acquired upon exercise or settlement of the Award or otherwise related to the Award or shares of Common Stock acquired upon exercise or settlement of the Award, which determination by the Committee of the amount due shall be binding upon the Awardee. Upon approval of the Committee, such Awardee may satisfy such obligation by complying with one or more of the following alternatives selected by the Committee:
- (1) by delivering to the Company whole shares of Common Stock then owned by such Awardee, or by the Company withholding whole shares of Common Stock otherwise issuable to the Awardee upon exercise or settlement of the Award, which shares of Common Stock received or withheld shall have a Fair Market Value on the date of exercise or settlement (as determined by the Committee in good faith) equal to the tax obligation to be paid by such Awardee upon such exercise or settlement determined by the applicable minimum statutory withholding rates;
 - (2) by executing appropriate loan documents approved by the Committee by which such Awardee borrows funds from the Company to pay the withholding taxes due under this Section 11, with such repayment terms as the Committee shall select;
 - (3) by any combination of the foregoing methods of payment; or
 - (4) by complying with any other payment mechanism as may be permitted for the issuance of equity securities under applicable securities and other laws and approved by the Committee from time to time.
- (c) The issuance, transfer or delivery of certificates of Common Stock pursuant to the exercise of an Award may be delayed, at the discretion of the Committee, until the Committee is satisfied that the applicable requirements of the federal and state securities laws and the withholding provisions of the Code have been met.

12. STOCK SPLIT, REORGANIZATION OR LIQUIDATION

- (a) Upon the occurrence of any of the following events, the Committee shall, with respect to each outstanding Award, proportionately adjust the number of shares of Common Stock issuable upon exercise or settlement of such Award, the per share exercise price or both so as to preserve the rights of the Awardee substantially proportionate to the rights of such Awardee prior to such event, and to the extent that such action shall include an increase or decrease in the number of shares of Common Stock issuable upon exercise of outstanding Awards, the number of shares available under Section 5 shall automatically be increased or decreased, as the case may be, proportionately, without further action on the part of the Committee, the Company, the Company's shareholders, or any Awardee:
- (1) the Company shall at any time be involved in a transaction described in Section 424(a) of the Code (or any successor provision) or any "corporate transaction" described in the regulations promulgated thereunder;
 - (2) the Company subdivides its outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock dividend, stock split, reclassification or otherwise) or combines its outstanding shares of Common Stock into a smaller number of shares of Common Stock (by reverse stock split, reclassification or otherwise); or
 - (3) any other event with substantially the same effect shall occur.
- (b) If the Company shall at any time declare an extraordinary dividend with respect to the Common Stock, whether payable in cash or other property, or is involved in any recapitalization, spin-off, combination, exchange of shares, warrants or rights offering to purchase Common Stock, or other similar event (including a merger or consolidation other than one that constitutes an Approved Transaction), the Committee may, in the exercise of its sole discretion and with respect to each outstanding Award, proportionately adjust the number of shares of Common Stock issuable upon exercise or settlement of such Award, the per share exercise price or both so as to preserve the rights of the Awardee substantially proportionate to the rights of such Awardee prior to such event, and to the extent that such action shall include an increase or decrease in the number of shares of Common Stock issuable upon exercise of outstanding Awards, the number of shares available under Section 5 of the Plan shall automatically be increased or decreased, as the case may be, proportionately, without further action on the part of the Committee, the Company, the Company's shareholders, or any Awardee.
- (c) The foregoing adjustments shall be made by the Committee or by the applicable terms of any assumption or substitution document.
- (d) With respect to the foregoing adjustments, the number of shares subject to an Award shall always be a whole number. The Committee may, if deemed appropriate, provide for a cash payment to any Awardee in connection with any adjustment made pursuant to this Section 12.
- (e) The grant of an Award shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge, consolidate or dissolve, to liquidate or to sell or transfer all or any part of its business or assets.

13. APPROVED TRANSACTIONS; CONTROL PURCHASE

In the event of any Approved Transaction or Control Purchase, if so provided for in the Agreement representing such Award, an Award may become exercisable in full in respect of the aggregate number of shares thereunder effective upon the Control Purchase or immediately prior to consummation of the Approved Transaction. In the case of an Approved Transaction, the Company shall provide notice of the pendency of the Approved Transaction at least fifteen (15) days prior to the expected date of consummation thereof to each Awardee entitled to acceleration. Each such Awardee shall thereupon be entitled to exercise the vested portion of the Award at any time prior to consummation of the Approved Transaction or immediately following the Control Purchase. Any such exercise shall be contingent on such consummation.

Following consummation of the Approved Transaction or Control Purchase, and until such Award is terminated, any vested portion of Awards that are not exercised shall remain exercisable, and any unvested portions of any Awards shall remain in effect and continue to vest in accordance with the vesting schedule specified at the time of grant, and upon such vesting shall become exercisable. Notwithstanding the foregoing, in its reasonable discretion, the Board may determine that any or all outstanding Awards that are unvested at the time of, or are not exercised upon consummation of, the Approved Transaction or Control Purchase shall thereafter terminate, provided that, in making such determination, the Board shall consider the best interests of the Awardees, the Company and its shareholders, and will make such determination only if the action to be taken, in the opinion of the Board, is appropriate in light of the circumstances under which such determination is made.

Moreover, except to the extent that such determination would render unavailable “pooling of interests” accounting treatment for any reorganization, merger or consolidation of the Company, the Board may take, or make effective provision for the taking of, such action as in the opinion of the Board is equitable and appropriate in order to substitute new awards for any or all outstanding Awards that do not become exercisable on an accelerated basis, or to assume such Awards (which assumption may be effected by any means determined by the Board, in its discretion, including, but not limited to, by a cash payment to each Awardee, in cancellation of the Awards held by him or her, of such amount as the Board determines, in its sole discretion, represents the then value of the Awards) and in order to make such new stock options or assumed Awards, as nearly as practicable, equivalent to the old Awards, taking into account, to the extent applicable, the kind and amount of securities, cash or other assets into or for which the Common Stock may be changed, converted or exchanged in connection with the Approved Transaction.

14. EFFECTIVE DATE; TERM

The Plan shall be effective upon its approval by the shareholders of the Company (the “Effective Date”). Awards may be granted by the Committee or Executive Officer from time to time thereafter until the tenth anniversary of the Effective Date. Termination of the Plan shall not terminate any Award granted prior to such termination.

15. NO OBLIGATIONS TO EXERCISE AWARD

The grant of an Award shall impose no obligation upon the Awardee to exercise such Award.

16. NO RIGHT TO AWARDS OR TO EMPLOYMENT

Whether or not any Awards are to be granted under the Plan shall be exclusively within the discretion of the Committee, and nothing contained in the Plan shall be construed as giving any person any right to participate under the Plan. The grant of an Award to any Awardee shall in no way constitute any form of agreement or understanding binding on the Company or any Related Corporation, express or implied, that the Company or such Related Corporation will employ or contract with such Awardee for any length of time, nor shall it interfere in any way with the Company’s or, where applicable, a Related Corporation’s right to terminate such Awardee’s employment at any time, which right is hereby reserved.

17. APPLICATION OF FUNDS

The proceeds received by the Company from the sale of Common Stock issued upon the exercise of Awards shall be used for general corporate purposes, unless otherwise directed by the Board.

18. INDEMNIFICATION OF COMMITTEE

In addition to all other rights of indemnification they may have by virtue of being a member of the Board or an executive officer of the Company, members of the Committee and the Executive Officer shall be indemnified by the Company for all reasonable expenses and liabilities of any type or nature, including attorneys’ fees, incurred in connection with any action, suit or proceeding to which they or any of them are a party by reason of, or in connection with, the Plan or any Award granted under the Plan, and against all amounts paid by them in settlement thereof (provided that such settlement is approved by independent legal counsel selected by the Company), except to the extent that such expenses relate to matters for which it is adjudged that such Committee member or Executive Officer is liable for willful misconduct; provided, however, that within fifteen (15) days after the institution of any such action, suit or proceeding, the Committee member or Executive Officer involved therein shall, in writing, notify the Company of such action, suit or proceeding, so that the Company may have the opportunity to make appropriate arrangements to prosecute or defend the same.

19. SHAREHOLDERS AGREEMENT

Unless the Agreement evidencing an Award expressly provides otherwise, each Awardee may be required, as a condition to the issuance of any shares of Common Stock that such Awardee acquires upon the exercise of the Award, to execute and deliver to the Company a shareholders agreement in such form as may be required by the Company at the time of such exercise, or a counterpart thereof, together with, unless the Awardee is unmarried, a spousal consent in the form required thereby, unless the Awardee has previously executed and delivered such documents and they are in effect at the time of exercise and apply by their terms to the shares to be issued.

20. SEPARABILITY

With respect to Incentive Stock Options, if the Plan does not contain any provision required to be included herein under Section 422 of the Code, such provision shall be deemed to be incorporated herein with the same force and effect as if such provision had been set out in full herein; provided, however, that to the extent any Option that is intended to qualify as an Incentive Stock Option cannot so qualify, the Option, to that extent, shall be deemed to be a Non-Qualified Stock Option for all purposes of the Plan.

21. NON-EXCLUSIVITY OF THE PLAN

Neither the adoption of the Plan by the Board nor the submission of the Plan to the shareholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of stock options and the awarding of stock and cash otherwise than pursuant to the Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

22. EXCLUSION FROM PENSION AND PROFIT-SHARING COMPUTATION

By acceptance of an Award, unless otherwise provided in the Agreement evidencing the Award, the Awardee with respect to such Award shall be deemed to have agreed that the Award is special incentive compensation that will not be taken into account, in any manner, as salary, compensation or bonus in determining the amount of any payment or other benefit under any pension, retirement or other employee benefit plan, program or policy of the Company or any of its affiliates.

23. AMENDMENT OF PLAN

The Board may, at any time, modify, amend or terminate the Plan or modify or amend any Award granted pursuant to the Plan, including, without limitation, such modifications or amendments as are necessary to maintain compliance with applicable statutes, rules or regulations; provided, however, that no amendment with respect to an outstanding Award which has the effect of reducing the benefits afforded to the Awardee shall be made over the objection of such Awardee; further provided, that the events triggering acceleration of vesting of an outstanding Award may be modified, expanded or eliminated without the consent of the Awardee. The Board may condition the effectiveness of any such amendment on the receipt of shareholder approval at such time and in such manner as the Committee may consider necessary for the Company to comply with or to avail the Company, the Awardees or both of the benefits of any securities, tax, market listing or other administrative or regulatory requirement which the Board determines to be desirable. Without limiting the generality of the foregoing, the Board may modify grants to persons who are eligible to receive Awards under the Plan who are foreign nationals or employed outside the United States to recognize differences in local law, tax policy or custom.

PLAN HISTORY

Approved by Board of Directors of the Company: April 14, 2021

Approved by Shareholders of the Company: June 10, 2021

Plan Expires: June 10, 2031

THIS OPTION AGREEMENT MAY NOT BE TRANSFERRED EXCEPT BY WILL OR UNDER THE LAWS OF DESCENT AND DISTRIBUTION OR PURSUANT TO A QUALIFIED DOMESTIC RELATIONS ORDER.

**BSQUARE CORPORATION
2021 EQUITY INCENTIVE PLAN**

NON-QUALIFIED STOCK OPTION AGREEMENT

THIS AGREEMENT is entered into as of [DATE] (the "Date of Grant") between BSQUARE CORPORATION, a Washington corporation (the "Company"), and [NAME] (the "Optionee").

RECITALS:

A. The Company has approved and adopted the 2021 Equity Incentive Plan (the "Plan"), pursuant to which the Plan Administrator is authorized to grant to employees of the Company or any Related Corporation ("Employees") and certain other designated individuals options to purchase shares of the Company's common stock, no par value (the "Common Stock");

B. The Optionee is an Employee;

C. The options granted hereunder are intended to qualify as Non-Qualified Stock Options which are not incentive stock options under Section 422 of the Internal Revenue Code of 1986, as amended (the "Code");

D. Capitalized terms used herein and not otherwise defined shall have the definitions given to them in the Plan.

AGREEMENT:

NOW, THEREFORE, the Company hereby grants to the Optionee the option to purchase, upon the terms and conditions set forth herein and in the Plan, [NUMBER OF SHARES] shares of Common Stock (the "Option").

1. EXERCISE PRICE.

The exercise price for the Option shall be [\$0.00] per share, which is not less than 100 percent of the Fair Market Value of the Common Stock on the Date of Grant.

2. VESTING SCHEDULE.

No Option shall be exercisable until it has vested. The Options shall vest over four years. 25% of the total Options provided in the Grant will vest after one year. Thereafter, 1/48th of the total Options granted will vest each month until the option grant is fully vested.

3. TERM OF OPTIONS

All Options granted under this Agreement shall expire ten (10) years from the Date of Grant.

4. OPTION NOT TRANSFERABLE.

The Option may not be transferred, assigned, pledged or hypothecated in any manner (whether by operation of law or otherwise) other than by will, by the applicable laws of descent and distribution or pursuant to any qualified domestic relations order, and shall not be subject to execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of the Option or of any right or privilege conferred hereby contrary to the provisions hereof, or upon the sale or levy or any attachment or similar process upon the rights and privileges conferred hereby, the Option shall thereupon terminate and become null and void.

5. INVESTMENT INTENT.

By accepting the Option, the Optionee represents and agrees, for the Optionee and all persons who acquire rights in the Option through the Optionee, that none of the shares of Common Stock purchased upon exercise of the Option will be distributed in violation of applicable federal and state laws and regulations. If requested by the Company, the Optionee shall furnish evidence satisfactory to the Company (including a written and signed representation letter and a consent to be bound by all transfer restrictions imposed by applicable law, legend condition or otherwise) to that effect, before delivery of the purchased shares of Common Stock.

6. TERMINATION OF OPTION.

Any vested Option granted to an Optionee shall terminate, to the extent not previously exercised, upon the occurrence of the first of the following events:

- (a) as designated by (x) the Board in accordance with Section 6(n) of the Plan or (y) the Committee in accordance with Section 6(d) of the Plan;
- (b) the date of the Optionee's termination of employment or contractual relationship with the Company or any Related Corporation for cause (as determined in the sole discretion of the Committee);
- (c) the expiration of ninety (90) days from the date of the Optionee's termination of employment or contractual relationship with the Company or any Related Corporation for any reason whatsoever other than cause, death or Disability unless the exercise period is extended by the Committee a date not later than the expiration date of the Option;
- (d) the expiration of one year from (A) the date of death of the Optionee or (B) cessation of the Optionee's employment or contractual relationship by reason of Disability unless the exercise period is extended by the Committee until a date not later than the expiration date of the Option; or

- (e) any other event specified by the Committee at the time of grant of the Option.

If an Optionee's employment or contractual relationship is terminated by death, any Option granted to the Optionee shall be exercisable only by the person or persons to whom such Optionee's rights under such Option shall pass by the Optionee's will or by the laws of descent and distribution of the state or county of the Optionee's domicile at the time of death. The Committee shall determine whether an Optionee has incurred a Disability on the basis of medical evidence reasonably acceptable to the Committee. Upon making a determination of Disability, the Committee shall, for purposes of the Plan, determine the date of an Optionee's termination of employment or contractual relationship.

Unless accelerated in accordance with Section 6(f) of the Plan, any unvested Option granted to an Optionee shall terminate immediately upon termination of employment of the Optionee by the Company for any reason whatsoever, including death or Disability. For purposes of the Plan, transfer of employment between or among the Company and/or any Related Corporation shall not be deemed to constitute a termination of employment with the Company or any Related Corporation.

7. STOCK.

In the case of any stock split, stock dividend or like change in the nature of shares granted by this Agreement, the number of shares and option price shall be proportionately adjusted as set forth in Section 6(m) of the Plan.

8. EXERCISE OF OPTION.

Optionee shall exercise the Option through the then-current electronic trading platform and application designated by the Company for such purposes (the "Option Exercise Application"). In the event that Optionee does not or cannot use the Option Exercise Application, then each exercise of the Option shall be by means of delivery of a Notice of Election to Exercise (which may be in the form attached hereto as Exhibit A) to the Secretary of the Company at its principal executive office, specifying the number of shares of Common Stock to be purchased and accompanied by payment in cash, or by certified or cashier's check payable to the order of the Company, of the full exercise price for the Common Stock to be purchased. Regardless of the method of Option exercise, the Optionee agrees to pay to the Company the amount necessary for the Company to satisfy its federal, state, local and foreign withholding obligations.

9. OPTIONEE ACKNOWLEDGMENTS.

The Optionee acknowledges that he or she has read and understands the terms of this Agreement and the Plan, and that:

(a) The issuance of shares of Common Stock pursuant to the exercise of the Option, and any resale of the shares of Common Stock, may only be effected in compliance with applicable state and federal laws and regulations and that the Optionee may be required to execute and deliver representations and warranties to that effect prior to the exercise of any portion of the Option;

(b) The Optionee is not entitled to any rights as a shareholder with respect to any shares of Common Stock issuable hereunder until the Optionee becomes a shareholder of record;

(c) The shares of Common Stock subject hereto may be adjusted in the event of certain changes in the capital structure of the Company or for any other reason required or permitted by the Plan;

(d) As a condition to the exercise of the Option, the Optionee may be required to make such arrangements as the Committee requires for the satisfaction of any federal, state or local withholding tax obligations; and

(e) This Agreement does not constitute an employment agreement nor does it entitle the Optionee to any specific employment or to employment for a period of time and that the Optionee's continued employment, if any, with the Company shall be at will and is subject to termination in accordance with the Company's prevailing policies and any other agreement between the Optionee and the Company.

10. PROFESSIONAL ADVICE. The acceptance and exercise of the Option and the sale of Common Stock issued pursuant to the exercise of the Option may have consequences under federal and state tax and securities laws which may vary depending on the individual circumstances of the Optionee. Accordingly, the Optionee acknowledges that the Optionee has been advised to consult his or her personal legal and tax advisor in connection with this Agreement and the Optionee's dealings with respect to the Option or the Common Stock.

11. NOTICES. Any notice required or permitted to be made or given hereunder shall be mailed or delivered personally to the addresses set forth below, or as changed from time to time by written notice to the other:

Company: BSQUARE CORPORATION
1415 Western Ave.
Suite 700
Seattle, Washington 98101
Attention: Secretary

Optionee: NAME
ADDRESS

12. AGREEMENT SUBJECT TO PLAN. The Option and this Agreement evidencing and confirming the same are subject to the terms and conditions set forth in the Plan and in any amendments to the Plan existing now or in the future, which terms and conditions are incorporated herein by reference. A copy of the Plan previously has been delivered to the Optionee. Should any conflict exist between the provisions of the Plan and those of this Agreement, those of the Plan shall govern and control. This Agreement and the Plan comprise the entire understanding between the Company and the Optionee with respect to the Option and shall be construed and enforced under the laws of the State of Washington.

IN WITNESS WHEREOF, clicking the "Accept" button along with the electronic signature of the Company's representative below, you and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan and this Option Agreement.

OPTIONEE

BSQUARE CORPORATION

Signature

By: _____
CEO or CFO

Name Typed or Printed

Exhibit A

Notice of Election to Exercise

This Notice of Election to Exercise shall constitute proper notice pursuant to Section 6(h) of the BSQUARE CORPORATION 2021 Equity Incentive Plan (the "Plan") and Section 8 of that certain Non-Qualified Stock Option Agreement (the "Agreement") dated as of _____ between BSQUARE CORPORATION (the "Company") and the undersigned.

The undersigned hereby elects to exercise the Optionee's option to purchase _____ shares of the Company's common stock, no par value, at a purchase price of \$_____ per share, for aggregate consideration of \$_____, on the terms and conditions set forth in the Agreement and the Plan. Such aggregate consideration, in the form specified in Section 8 of the Agreement, accompanies this Notice.

The undersigned has executed this Notice this ____ day of _____, _____.

Name Typed or Printed

Signature

BSQUARE CORPORATION
2021 EQUITY INCENTIVE PLAN
RESTRICTED STOCK UNIT AGREEMENT

This Restricted Stock Unit Agreement (the “Agreement”) is made as of [●] by and between BSQUARE CORPORATION, a Washington corporation (the “Company”), and [●] (the “Participant”).

1. **Award of Restricted Stock Units**. Subject to the terms and conditions of this Agreement, on the date of this Agreement the company will award to Participant [●] Restricted Stock Units representing [●] ([●]) shares of Common Stock (the “Units”). The award of the Units shall be subject to the terms, definitions and provisions of the BSQUARE Corporation 2021 Equity Incentive Plan (now and as amended in the future, the “Plan”) adopted by the Company, which is incorporated in this Agreement by reference. Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the meanings defined in the Plan.

2. **Payment for the Units**. No payment is required for the Units that Participant is receiving.

3. **Vesting Schedule**. The Units shall vest as follows: [●].

4. **Forfeiture of Units**. If Participant’s employment or contractual relationship with the Company terminates for any reason, then Participant’s Units will be forfeited to the extent that they have not vested before the termination date and do not vest as a result of the termination. This means that the Units that have not already vested will immediately be cancelled. Participant will receive no payment for Units that are forfeited. Unless otherwise required by applicable law, the Company determines when Participant’s employment or contractual relationship with the Company terminates for this purpose.

5. **Units Not Transferable**. The Units may not be transferred, assigned, pledged or hypothecated in any manner (whether by operation of law or otherwise) other than by will, by the applicable laws of descent and distribution or pursuant to any qualified domestic relations order, and shall not be subject to execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of the Units or of any right or privilege conferred hereby contrary to the provisions hereof, or upon the sale or levy or any attachment or similar process upon the rights and privileges conferred hereby, the Units shall thereupon terminate and become null and void.

6. **Restrictions on Resale**. By accepting the Units, Participant agrees not to sell any shares of Common Stock at a time when applicable laws, Company policies or an agreement between the Company and its underwriters prohibit a sale. This restriction will apply as long as Participant’s employment or contractual relationship with the Company continues and for such period of time after the termination of such employment or contractual relationship as the Company may specify.

7. **Adjustments**. In the case of any stock split, stock dividend or like change in the nature of shares granted by this Agreement, the number of Units shall be proportionately adjusted as set forth in the Plan.

8. **Settlement of Units**. Each of Participant’s Units will be settled on the date it vests or on a later date agreed to by the Participant and the Company, but in any event no later than the 15th day of the third month following the end of the calendar year or Company fiscal year (whichever ends later) in which the Unit vests. At the time of settlement, Participant will receive one share of Common Stock for each vested Unit. The Company, at its sole discretion, may substitute an equivalent amount of cash if the distribution of stock is not reasonably practicable due to the requirements of applicable law. The amount of cash will be determined on the basis of the Fair Market Value of the Company’s Common Stock at the time of settlement, as further described in the Plan.

9. **Participant Acknowledgments**. The Participant acknowledges that he or she has read and understands the terms of this Agreement and the Plan, and that:

(a) The Units are mere bookkeeping entries and, as such, represent only the Company’s unfunded and unsecured promise to issue shares of Common Stock on a future date, therefore, as a holder of Units, Participant has no rights other than the rights of a general creditor of the Company;

(b) The Units carry neither voting rights nor rights to cash dividends, and Participant has no rights as a shareholder of the Company unless and until Participant's Units are settled by issuing shares of Common Stock;

(c) No shares of Common Stock will be distributed to Participant unless Participant has made acceptable arrangements to pay any withholding taxes that may be due as a result of the settlement of the Units (with the Company's consent, these arrangements may include (i) withholding shares of Common Stock that otherwise would be issued to Participant when the Units are settled or (ii) surrendering shares of Common Stock that Participant previously acquired, in each case, the fair market value of these shares, determined as of the date when taxes otherwise would have been withheld in cash, will be applied to the withholding taxes); and

(d) This Agreement does not constitute an employment agreement nor does it entitle the Participant to any specific employment or to employment for a period of time and that the Participant's continued employment, if any, with the Company shall be at will and is subject to termination in accordance with the Company's prevailing policies and any other agreement between the Participant and the Company.

10. **Professional Advice.** The acceptance of the Units and the sale of Common Stock issued pursuant to such Units may have consequences under federal and state tax and securities laws which may vary depending on the individual circumstances of the Participant. Accordingly, the Participant acknowledges that the Participant has been advised to consult his or her personal legal and tax advisor in connection with this Agreement and the Participant's dealings with respect to the Units or the Common Stock.

11. **Effect of Agreement.** Participant acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts the Units and agrees to be bound by the contractual terms as set forth herein and in the Plan. Participant hereby agrees to accept as binding, conclusive and final all decisions and interpretations of the Plan Administrator regarding any questions relating to the Units. In the event of a conflict between the terms and provisions of the Plan and the terms and provisions of this Agreement, the Plan terms and provisions shall prevail. This Agreement, including the Plan, constitutes the entire agreement between Participant and the Company on the subject matter hereof and supersedes all proposals, written or oral, and all other communications between the parties relating to such subject matter.

[Signature Page Follows]

The parties have executed this Agreement as of the date first set forth above.

BSQUARE CORPORATION

By: _____

Title: _____

PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF UNITS UNDER SECTION 3 HEREOF SHALL OCCUR ONLY THROUGH CONTINUING SERVICE AS AN EMPLOYEE OF OR SERVICE PROVIDER TO THE COMPANY. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT NOTHING IN THIS AGREEMENT SHALL CONFER UPON PARTICIPANT ANY RIGHT WITH RESPECT TO CONTINUATION OF SUCH RELATIONSHIP WITH THE COMPANY.

PARTICIPANT:

(Signature)

(Printed Name)

Address:

Vesting Commencement Date:

BSQUARE CORPORATION

2021 EQUITY INCENTIVE PLAN

PERFORMANCE STOCK UNIT AGREEMENT

This Performance Stock Unit Agreement (the “Agreement”) is made as of [●] by and between BSQUARE CORPORATION, a Washington corporation (the “Company”), and [●] (the “Participant”).

1. **Award of Performance Stock Units.** Subject to the terms and conditions of this Agreement, on the date of this Agreement the company will award to Participant [●] Performance Stock Units representing [●] ([●]) shares of Common Stock (the “Units”). The award of the Units shall be subject to the terms, definitions and provisions of the BSQUARE Equity Incentive Plan (now and as amended in the future, the “Plan”) adopted by the Company, which is incorporated in this Agreement by reference. Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the meanings defined in the Plan.

2. **Payment for the Units.** No payment is required for the Units that Participant is receiving.

3. **Vesting of Units.** Except as provided in Section 3(c), the vesting of each Unit requires the satisfaction of both the Service Condition and the Performance Milestone Condition (as such conditions are defined in Sections 3(a) and 3(b) below) on or before [●] (the “Expiration Date”). Each Unit will become a vested Unit on the first date (the “Vesting Date”) on which *both* the Service Condition and the Performance Milestone Condition have been satisfied with respect to such Unit on or before the Expiration Date, provided that the Participant’s employment or contractual relationship with the Company has not terminated before the Vesting Date.

(a) **Service Condition.** The Service Condition will be satisfied for a portion of the Units by the Participant’s continued employment or contractual relationship with the Company through the applicable date, as follows:

(i) [●]% of the Units on [●]; and

(ii) [●]% of the Units on [●] and each of the next [●] subsequent three-month anniversaries thereof].

(b) **Performance Milestone Condition.** The Performance Milestone Condition will be satisfied for a portion of the Units if the volume-weighted average price of the Common Stock on the stock exchange constituting the primary market for the Common Stock (the “VWAP Price”) in any 180 calendar day period during the period beginning on [●] and ending on the Expiration Date equals or exceeds the applicable target price, as follows:

(i) [●]% of the Units if the VWAP Price equals or exceeds \$[●];

(ii) [●]% of the Units if the VWAP Price equals or exceeds \$[●]; and

(iii) [●]% of the Units if the VWAP Price equals or exceeds \$[●].

(c) **Vesting upon a Control Purchase.** Notwithstanding the foregoing, in the event of the consummation of a Control Purchase (as defined by the Plan) on or before the Expiration Date and provided that the Participant’s employment or contractual relationship with the Company has not terminated prior to the closing of the Control Purchase, then (i) the Service Condition shall be deemed satisfied in its entirety and, (ii) for purposes of achievement of Performance Milestone Condition, the aggregate consideration per share of Common Stock in the Control Purchase (the “Transaction Price”) shall be substituted in place of the VWAP Price and the portion of the Units satisfying the Performance Milestone Condition shall be determined by linear interpolation for a Transaction Price that falls between VWAP Price milestones in Section 3(b) above.

4. **Forfeiture of Units.** If either (a) Units remain unvested as of the Expiration Date or (b) the Participant’s employment or contractual relationship with the Company terminates for any reason, then Participant’s Units will be forfeited to the extent that they have not vested before, as applicable, the Expiration Date or the termination date and do not vest as a result of the termination. This means that the Units that have not already vested will immediately be cancelled. Participant will receive no payment for Units that are forfeited. Unless otherwise required by applicable law, the Company determines when Participant’s employment or contractual relationship with the Company terminates for this purpose.

5. **Units Not Transferable.** The Units may not be transferred, assigned, pledged or hypothecated in any manner (whether by operation of law or otherwise) other than by will, by the applicable laws of descent and distribution or pursuant to any qualified domestic relations order, and shall not be subject to execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of the Units or of any right or privilege conferred hereby contrary to the provisions hereof, or upon the sale or levy or any attachment or similar process upon the rights and privileges conferred hereby, the Units shall thereupon terminate and become null and void.

6. **Restrictions on Resale.** By accepting the Units, Participant agrees not to sell any shares of Common Stock at a time when applicable laws, Company policies or an agreement between the Company and its underwriters prohibit a sale. This restriction will apply as long as Participant's employment or contractual relationship with the Company continues and for such period of time after the termination of such employment or contractual relationship as the Company may specify.

7. **Adjustments.** In the case of any stock split, stock dividend or like change in the nature of shares granted by this Agreement, the number of Units shall be proportionately adjusted as set forth in the Plan.

8. **Settlement of Units.** Each of Participant's Units will be settled on the date it vests or on a later date agreed to by the Participant and the Company, but in any event no later than the 15th day of the third month following the end of the calendar year or Company fiscal year (whichever ends later) in which the Unit vests. At the time of settlement, Participant will receive one share of Common Stock for each vested Unit. The Company, at its sole discretion, may substitute an equivalent amount of cash if the distribution of stock is not reasonably practicable due to the requirements of applicable law. The amount of cash will be determined on the basis of the Fair Market Value of the Company's Common Stock at the time of settlement, as further described in the Plan.

9. **Participant Acknowledgments.** The Participant acknowledges that he or she has read and understands the terms of this Agreement and the Plan, and that:

(a) The Units are mere bookkeeping entries and, as such, represent only the Company's unfunded and unsecured promise to issue shares of Common Stock on a future date, therefore, as a holder of Units, Participant has no rights other than the rights of a general creditor of the Company;

(b) The Units carry neither voting rights nor rights to cash dividends, and Participant has no rights as a shareholder of the Company unless and until Participant's Units are settled by issuing shares of Common Stock;

(c) No shares of Common Stock will be distributed to Participant unless Participant has made acceptable arrangements to pay any withholding taxes that may be due as a result of the settlement of the Units (with the Company's consent, these arrangements may include (i) withholding shares of Common Stock that otherwise would be issued to Participant when the Units are settled or (ii) surrendering shares of Common Stock that Participant previously acquired, in each case, the fair market value of these shares, determined as of the date when taxes otherwise would have been withheld in cash, will be applied to the withholding taxes); and

(d) This Agreement does not constitute an employment agreement nor does it entitle the Participant to any specific employment or to employment for a period of time and that the Participant's continued employment, if any, with the Company shall be at will and is subject to termination in accordance with the Company's prevailing policies and any other agreement between the Participant and the Company.

10. **Professional Advice.** The acceptance of the Units and the sale of Common Stock issued pursuant to such Units may have consequences under federal and state tax and securities laws which may vary depending on the individual circumstances of the Participant. Accordingly, the Participant acknowledges that the Participant has been advised to consult his or her personal legal and tax advisor in connection with this Agreement and the Participant's dealings with respect to the Units or the Common Stock.

11. **Effect of Agreement.** Participant acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts the Unites and agrees to be bound by the contractual terms as set forth herein and in the Plan. Participant hereby agrees to accept as binding, conclusive and final all decisions and interpretations of the Plan Administrator regarding any questions relating to the Units. In the event of a conflict between the terms and provisions of the Plan and the terms and provisions of this Agreement, the Plan terms and provisions shall prevail. This Agreement, including the Plan, constitutes the entire agreement between Participant and the Company on the subject matter hereof and supersedes all proposals, written or oral, and all other communications between the parties relating to such subject matter (including any rights to an annual bonus set forth in any applicable offer letter).

[Signature Page Follows]

The parties have executed this Agreement as of the date first set forth above.

BSQUARE CORPORATION

By: _____

Title: _____

PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF UNITS UNDER SECTION 3 HEREOF SHALL OCCUR ONLY THROUGH CONTINUING SERVICE AS AN EMPLOYEE OF OR SERVICE PROVIDER TO THE COMPANY. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT NOTHING IN THIS AGREEMENT SHALL CONFER UPON PARTICIPANT ANY RIGHT WITH RESPECT TO CONTINUATION OF SUCH RELATIONSHIP WITH THE COMPANY.

PARTICIPANT:

(Signature)

(Printed Name)

Address:

Vesting Commencement Date: